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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Fifty-fifth year

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the fifth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Criminal Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

* The footnote requested by the General Assembly in its resolution 54/248 was not included in the submission.

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Fifth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

For the period 1 July 1999 to 30 June 2000

Contents

		Paragraphs	*Page*
I.	Introduction	1–6	3
II.	The Chambers	7–47	3
	A. Judicial activities	11–21	3
	B. The Appeals Chamber	22–47	5
III.	The Office of the President	48–60	7
IV.	Judicial and Legal Services Division	61–102	9
	A. General Legal Services Section	62–69	9
	B. Court Management Section	70–77	10
	C. Witnesses and Victims Support Section	78–87	11
	D. Lawyers and Detention Facilities Management Section	88–92	12
	E. Legal Library and Reference Section	93–98	13
	F. United Nations Detention Facility	99–101	14
	G. Gender issues and assistance to victims	102	14
V.	Division of Administration	103–119	15
VI.	Office of the Prosecutor	120–153	17
	A. Consolidation of the investigations and prosecution strategy	123–137	18
	B. Realignments in the prosecution strategy, in response to continuing investigations	138–139	20
	C. Judicial activities of the Office of the Prosecutor	140–149	20
	D. Other activities of the Office of the Prosecutor	150–153	22
Annexes			
I.	Motions, decisions and pre-trial litigation in the case of *The Prosecutor v. Ignace Bagilishema* (ICTR-95-1-T)		24
II.	Note by Trial Chamber I on the "Media" cases		26
III.	Note by Trial Chamber II		28
IV.	Note by Trial Chamber III		31
V.	Motions and pre-trial litigation in Trial Chambers I, II and III		32

I. Introduction

1. During the period under review, The International Criminal Tribunal for Rwanda (ICTR), rendered three judgements, bringing the total number of judgements rendered thus far to seven, involving eight accused persons. These judgements must be viewed as a step towards transforming the aspirations of international criminal justice into reality, and contributing to the process of national reconciliation in Rwanda and to the restoration of peace in the region.

2. The three judgements were rendered in the cases of *The Prosecutor v. Georges Anderson Rutaganda, The Prosecutor v. Alfred Musema and The Prosecutor v. Georges Ruggiu.*

3. The ICTR Appeals Chamber rendered 24 rulings on interlocutory appeals, two review decisions and confirmed the judgement in *The Prosecutor* v. *Omar Serushago.*

4. The Tribunal held two plenary sessions. Among other matters, a number of amendments to the existing Rules of Procedure and Evidence and new Rules were adopted at the plenary sessions, with a view to expediting trials.

5. An Expert Group[1] conducted a full review of the effective operation and functioning of the Tribunal, in cooperation with the President, the judges, the Prosecutor, the Registrar and heads of various sections. A comprehensive report on the matter (see A/54/634) was presented to the Secretary-General on 11 November 1999.

6. This present report reviews the main activities of the Chambers, the Office of the Prosecutor, the Registry and the Administration, as well as the support provided to these organs by States and various institutions.

II. The Chambers

7. The Chambers consists of three Trial Chambers and one Appeals Chamber, with three judges sitting in each of the three Trial Chambers.

8. Trial Chamber I is comprised of Judge Navanethen Pillay (South Africa), presiding; Judge Erik Møse (Norway); and Judge Asoka de Zoysa Gunawardana (Sri Lanka).

9. Trial Chamber II is comprised of Judge Laïty Kama (Senegal), presiding; Judge Mehmet Güney (Turkey); and Judge William Hussein Sekule (United Republic of Tanzania).

10. Trial Chamber III is comprised of Judge Lloyd George Williams (Jamaica, Saint Kitts and Nevis), presiding; Judge Pavel Dolenc (Slovenia); and Judge Yakov Arkadievich Ostrovsky (Russian Federation).

A. Judicial activities

The Prosecutor v. Georges Anderson Rutaganda (ICTR-96-3-T)

11. On 6 December 1999, Trial Chamber I[2] rendered its judgement in the above case. Rutaganda, a former businessman and the second vice-president of the *Interahamwe*, was convicted of genocide, as stipulated in article 2(3)(a) of the Statute. He was also convicted of two counts of crimes against humanity (murder and extermination), as stipulated in article 3 (a) and (b) of the Statute and sentenced to life imprisonment. He has since filed an appeal against the judgement.

The Prosecutor v. Alfred Musema (ICTR-96-13-T)

12. On 27 January 2000, Trial Chamber I[3] rendered its judgement in the above case. Musema, a former tea factory director, was convicted of genocide, as stipulated in article 2(3)(a) of the Statute, and two counts of crimes against humanity (rape and extermination), as stipulated in article 3 (b) and (g) of the Statute, and sentenced to life imprisonment. He has since filed an appeal against the judgement.

The Prosecutor v. Georges Ruggiu (ICTR-97-32-T)

13. On 1 June 2000, Georges Ruggiu, a Belgian national who worked as a journalist in Rwanda during the events of 1994, pleaded guilty to, and was subsequently convicted by Trial Chamber I[4] of direct and public incitement to commit genocide, as stipulated in article 2(3)(c) of the Statute, and crimes against humanity (persecution), as stipulated in article 3(h) of the Statute. Ruggiu was sentenced to 12 years' imprisonment for the crime of direct and public incitement to commit genocide and a further 12 years imprisonment for crimes against humanity, both sentences to run concurrently. Neither Ruggiu nor the Prosecutor appealed against the judgement and sentence.

The Prosecutor v. Ignace Bagilishema (ICTR-95-1-T)

14. In this case Trial Chamber I[5] ruled on 16 pre-trial motions. Six of these motions were filed by the Prosecutor and 10 by the defence. The trial commenced on 27 October 1999. In total, 32 witnesses were called, of whom 18 testified on behalf of the prosecution and 14 on behalf of the defence. The accused also testified in his own defence. The parties have closed their respective cases and are currently presenting their closing arguments, after which the Trial Chamber will commence deliberations over the judgement. A list of motions considered by the Trial Chamber in the case is set out in annex I to the present report.

The Prosecutor v. Nahimana (ICTR-96-11-T); Barayagwiza (ICTR-97-19-T); and Ngeze (ICTR-97-27-T); referred to as the "Media" cases

15. The trial of the three accused was scheduled to commence on 18 September 2000. The trial could not commence earlier, as pre-trial motions had to be dispensed with and full disclosure made. A note from the Trial Chamber on these matters is set out in annex II to the present report. During the period under review, Trial Chamber I ruled on 28 motions, of which 21 were filed by the defence and 7 by the prosecution. A number of these interlocutory decisions have been taken on appeal by the defence and decisions are pending.

The Prosecutor v. Elizaphan Ntakirutimana and Gerard Ntakirutimana (ICTR-96-10-T/ICTR-96-17-T)

16. Elizaphan Ntakirutimana, an accused in this case, was transferred from the United States of America and arrived at the ICTR detention facility on 24 March 2000. He made his initial appearance on 31 March 2000 and entered a plea of not guilty in respect of all the counts for which he was indicted. At a status conference on 24 May 2000, the trial of both accused was scheduled to commence on 22 January 2001 before Trial Chamber I. The schedule allows the parties sufficient time to finalize all pre-trial matters.

The Prosecutor v. Ndayambaje (ICTR-96-8-T); Kanyabashi (ICTR-96-15-T); Ntahobali (ICTR-96-21-T); Nyiramasuhuko (ICTR-96-21-T); Nsabimana (ICTR-97-29-T) and Nteziryayo (ICTR-97-29-T); referred to as the "Butare" cases

17. During the period under review, Trial Chamber II ruled on 37 motions, 35 of which motions were filed by the defence, and 2 by the Prosecutor. One such motion was a request by the Prosecutor to hold a joint trial of the above accused. The Trial Chamber granted the motion and ordered a joint trial for all six accused. The decision was taken on appeal by two of the accused, Kanyabashi and Nyiramasuhuko. On 17 April 2000, the Appeals Chamber dismissed the appeals and upheld the decision of the Trial Chamber. Owing to ongoing pre-trial litigation, the trial is expected to commence in the latter part of 2001. A note from Trial Chamber II on these matters is set out in annex III to the present report.

The Prosecutor v. Elizer Niyitigeka (ICTR-96-14-T); The Prosecutor v. Karamera, Ngirumpatse, Rwamakuba, Nzirorera and three others[6] (ICTR-98-44-T); The Prosecutor v. Kajelijeli (ICTR-98-44A-T); The Prosecutor v. Bizimungu, Mugenzi, Mugiraneza and Bicamumpaka (ICTR-99-50-T); The Prosecutor v. Kamuhanda and one other[7] (ICTR-99-54-T); referred to as the "Government" cases.

18. During the reporting period, Trial Chamber II ruled on 83 pre-trial motions in respect of the above cases, of which 65 were filed by the defence and 18 by the Prosecutor. Despite this extensive pre-trial litigation, a trial date suitable to the parties could not be arranged and there still appear to be complexities that are yet to be resolved. Status conferences with the parties concerned are being scheduled with a view to resolving these outstanding issues and thereafter finalizing a trial date. For a full report on these complexities and other related issues see annex III to the present report.

The Prosecutor v. Bagambiki; Imanishimwe; and; Ntagerura (ICTR-99-46-T); referred to as the "Cyangugu" case

19. During the period under review, Trial Chamber III ruled on 16 pre-trial motions in the above matter, of which 10 were filed by the defence and 6 by the Prosecutor. Owing to unforeseen circumstances, the

trial was delayed and was rescheduled to commence on 18 September 2000, before Trial Chamber III. Annex IV to the present report contains an explanation of the reasons for delay in the commencement of this trial.

The Prosecutor v. Semanza (ICTR-97-20-T)

20. During the period under review, Trial Chamber III ruled on 11 pre-trial motions in this case of which 9 were filed by the defence and 2 by the Prosecutor. Owing to certain circumstances the commencement of the trial was delayed. The trial was scheduled to commence on 16 October 2000. Annex IV to the present report contains an explanation of the reasons for the delay of the commencement of this trial.

Pre-trial motions decided by the Trial Chambers

21. During the period under review, the Trial Chambers rendered decisions in 191 pre-trial motions. The large volume of motions, and interlocutory appeals filed, were the main contributing factors for the delay in the commencement of the trials. A complete list of motions considered by the Trial Chambers is contained in annex V to the present report. Other factors that also contributed to the delay in the commencement of trials, include: the difficulties experienced in the translation of court documents (including materials subject to disclosure to the defence); the assignment and availability of defence counsel; and the many requests by accused persons to change their assigned defence counsel.

B. The Appeals Chamber

1. The work of the Appeals Chamber relating to the Tribunal

22. The Appeals Chamber hears appeals from certain decisions rendered by the Trial Chambers. Article 24 of the Statute provides for appeals from decisions on the merits convicting or acquitting an accused. Under rule 72 of the Rules of Procedure and Evidence, appeals may be lodged from interlocutory decisions on preliminary motions relating to objections based on lack of jurisdiction of the Tribunal. Lastly, under rule 65 of the Rules, decisions ordering the provisional release of an accused shall also be subject to appeal.

23. In February 2000, two sub-rules were added to rule 72. The new rule 72 defines the scope of the concept of jurisdiction. Moreover, an appeal may henceforth be brought under rule 72 only upon prior leave granted by a bench of three judges of the Appeals Chamber.

24. A distinctive feature of the Appeals Chamber is that its judges are based at the seat of the Tribunal in Arusha. ICTR also maintains an Appeals Chamber Support Unit at the International Tribunal for the Former Yugoslavia (ITFY) at The Hague.

25. The Appeals Chamber Support Unit includes a Legal Officer (Chief of Unit, P-4), two Associate Legal Officers (P-2), one of which posts is still vacant, one Secretary and two Translators, assigned to the Unit this year. However, the number of translators is clearly inadequate. Moreover, their work is not reviewed by revisers on site. With regard to the legal staff of the Unit, an additional Legal Officer post at the P-3 level is being proposed in order to bring the staffing structure in line with that of the Appeals Chamber for ITFY.

2. Working Group on the Appeals Chamber

26. In the face of the communications difficulties inherent in the conduct of business between Arusha and The Hague, which to a certain extent hinder the expeditious conduct of appeals proceedings, the Presiding Judge of the Chamber, Judge Claude Jorda, who is also the President of ITFY, established a Working Group on the Appeals Chamber tasked with reviewing the situation of the two Appeals Chambers, whose docket more than doubled during the period under review.

27. In addition, the Working Group undertook to analyse the structure and operation of the Appeals Chamber, taking into account the specificities of the two Tribunals. It should be recalled that the same appeals judges sit for both Tribunals.

28. The Group was also charged with finding solutions to the difficulties encountered by the Appeals Chamber in the translation and transmission of documents between the two Tribunals.

29. The Working Group is composed of the presiding judge of the Chamber, Judge Claude Jorda; Judge Mohamed Shahabuddeen, the Deputy Registrar of ITFY, senior Legal Officers of both Tribunals and the *chef de cabinet* of the President of ITFY. The Working Group held several meetings between November 1999 and June 2000 and its discussions focused on two

areas, namely amendment of the Rules and structural changes.

30. With respect to the Rules of Procedure and Evidence, firstly, in January, the Group proposed amendments thereto aimed at addressing the disposition of the numerous interlocutory appeals and their impact on the duration of trials. Its proposed amendments were reviewed by the judges of the Appeals Chamber and transmitted to ICTR judges during their plenary session in Arusha; the latter approved the proposals subject to several amendments.

31. As regards structural changes, a mirror site was proposed for the ICTR Registry at both Arusha and The Hague. Numerous negotiations between the two Tribunals, conducted chiefly by the presiding judge of the Chamber and the Deputy Registrar of ITFY, led to the adoption of specific measures to address difficulties relating to the translation and transmission of documents by the plenary session of ICTR judges held on 26 June 2000.

32. Thus, rules 109 and 117 of the Rules of Procedure and Evidence were amended so that parties may file their notices of appeal and appeals briefs either in Arusha or at The Hague. A Registry, staffed by a documentalist and a P-2 Associate Legal Officer, has also been established within the Appeals Chamber Support Unit for that purpose.

33. Lastly, the Working Group explored the feasibility of the Expert Group's proposal aimed at creating two additional seats in the Appeals Chamber, to be filled by ICTR judges. The proposal was unanimously endorsed by the judges of the two Tribunals.

34. All these changes have led to significant improvements in both the actual process and the pace of disposition of cases by the Appeals Chamber. Should the trend continue, all the cases pending before the Appeals Chamber would have been disposed of by the end of September.

3. Appeals from judgements on the merits

35. During the period under review, the Appeals Chamber entertained three appeals on the merits, indeed four, taking into account the joint appeals lodged by the Prosecutor in two cases, and rendered one decision on the merits. Five cases are currently pending before the Appeals Chamber.

The Jean-Paul Akayesu case

36. The trial of Jean-Paul Akayesu commenced on 9 January 1997 and ended on 28 March 1998. Akayesu was charged with several counts, ranging from genocide to serious violations of international humanitarian law, and was found guilty, in a judgement rendered on 2 September 1998, of several counts of genocide, incitement to commit genocide, and other crimes against humanity. He was sentenced to a single term of life imprisonment. Akayesu appealed the judgement. During the period under review, he filed several motions relating to his appeal which the Appeals Chamber disposed of.

37. The Prosecutor also appealed the judgement's finding of not guilty of certain crimes entered on behalf of Jean-Paul Akayesu.

The Jean Kambanda case

38. Jean Kambanda, who was the head of the interim Government, pleaded guilty on 1 May 1998 to counts including genocide and conspiracy to commit genocide. By a judgement delivered on 4 September 1998, he was found guilty by the Tribunal of charges preferred in the indictment against him and was sentenced to a single term of life imprisonment. Kambanda appealed the judgement and sentence as unreasoned and excessive, respectively. The appeal was heard on the merits at a hearing held on 27 and 28 June 2000 and is under deliberation by the judges.

The C. Kayishema and O. Ruzindana case

39. Three appeals have been lodged in the above case: two by the convicted persons and one by the Prosecutor. The trial of the accused, who were charged with several counts of genocide, other crimes against humanity and serious violations of international humanitarian law, began on 11 April 1997 and ended on 21 May 1999. The Trial Chamber found the accused guilty of certain crimes and acquitted them of others. Kayishema and Ruzindana were sentenced to life imprisonment and 25 years in prison respectively. They have appealed the sentences. The Prosecutor has also appealed the judgement with respect to the acquittal of the accused of certain crimes.

The Georges Rutaganda case

40. The trial of the accused, who was charged with genocide, other crimes against humanity and serious

violations of international humanitarian law, began on 18 March 1997 and ended on 6 December 1999 with a judgement finding the accused guilty of genocide and two crimes against humanity. The Trial Chamber imposed on Rutaganda a single sentence of life imprisonment. He has appealed the judgement. The Prosecutor has also appealed against the finding of not guilty entered on certain counts.

The Alfred Musema case

41. The accused was charged with conspiracy to commit genocide, genocide and other crimes and violations of international humanitarian law. His trial began on 25 January 1999 and ended on 27 January 2000. The accused was found guilty of genocide and other crimes against humanity. He was sentenced to life imprisonment and has lodged an appeal.

The Serushago case

42. On 14 December 1998, the accused pleaded guilty to four counts of genocide and other crimes against humanity. On 5 February 1999, he was sentenced to 15 years in prison for all the crimes of which he was found guilty. Serushago appealed his sentence. In a decision rendered on 6 April 2000, the Appeals Chamber confirmed the sentence.

4. Interlocutory appeals

43. During the period under review, the Appeals Chamber was seized of 34 interlocutory appeals and it ruled on 24 of them. The appeals against interlocutory decisions rendered by the Trial Chambers related essentially to the Tribunal's lack of jurisdiction or to the lawfulness of the arrest, investigation and indictment of suspects. Moreover, the accused have challenged the territorial and subject-matter jurisdiction of the Tribunal to entertain certain facts.

44. Most of the appeals were dismissed on the grounds that the objections raised did not go to the Tribunal's lack of jurisdiction or that they did not meet the requirements of rule 72 of the Rules. Indeed, the admissibility of any appeal is contingent upon compliance with a specific procedure.

45. The accused must raise his or her objections within 30 days following disclosure by the Prosecutor of the supporting material that accompanied the indictment. The Chamber has recalled in its decisions that such a procedure may not be used to challenge all interlocutory decisions rendered by the Trial Chambers.

5. Motions for review

46. The Appeals Chamber has heard four motions for review of its own decisions. It ruled on two such motions, with its leading decision coming in *The Prosecutor v. Barayagwiza.*

The Prosecutor v. Barayagwiza

47. By a decision dated 17 November 1998, the Trial Chamber denied a motion to nullify the arrest and detention of the accused Barayagwiza; the accused appealed the latter decision. On 3 November 1999, the Appeals Chamber directed the release of the accused and dismissed the indictment against him, with prejudice to the Prosecutor. The Prosecutor immediately filed a motion for review of that decision on the grounds of new facts pursuant to rule 120 of the Rules. On 31 March 2000, the Appeals Chamber reviewed its decision ordering release and ordered a continuation of the proceedings while deciding that the accused would be entitled either to compensation if he were acquitted or to a reduction in the sentence if he were found guilty.

III. The Office of the President

48. The President of ICTR is Judge Navanethem Pillay (South Africa) and the Vice-President is Judge Erik Møse (Norway).

The Bureau

49. The Bureau is composed of Judge Navanethem Pillay, President; Judge Erik Møse, Vice-President; Judge Laïty Kama, Presiding Judge of Trial Chamber II; and Judge Lloyd George Williams, Presiding Judge of Trial Chamber III.

50. During the period under review, the President of the Tribunal chaired 10 meetings of the Bureau. Matters discussed at the meetings included the judicial management of the Chambers; the support rendered by the Court Management Section to the Chambers and the Appeals Unit; and the budget for the Chambers Support Section and the Appeals Unit. The Bureau also rendered three rulings on the disqualification of judges in pending criminal matters, following motions that had originally been filed before the Trial Chambers. In

these instances, the presiding judges of the Chambers referred the matters to the Bureau for determination.

Rulings and reviews made by the President

51. During the period under review, the President, at the request of accused persons, reviewed and ruled on the Registrar's decision regarding the assignment of defence counsel to indigent accused. The President has also ruled on requests made by the Registrar, and in some instances by the Parties on matters relating to the conditions of detention, in respect of individual accused persons.

52. The President has on occasion, and for various reasons, exercised the powers vested in her by the Statute and the Rules of ICTR and changed the composition of the Chambers by assigning judges to sit in place of other judges, for the purposes of hearing specific pre-trial motions.

53. The President also reviewed requests made by detainees, such as the request to review the "Accreditation of the Rwandan Government Representative to the Tribunal", in which the President found that the representative was not given any special status or office facilities at ICTR. The proceedings in the courtrooms, unless ordered otherwise, are open to the public and the representative, as a member of the public, may exercise this right of access to the Tribunal.

Meetings with diplomats and government representatives

54. During the period under review, the President held meetings with 19 government representatives from various Member States. Discussions at the meetings focused on delays in the criminal proceedings before the Tribunal, cooperation between the respective States and the Tribunal, the rendering of assistance to the Tribunal and the possibility of persons convicted by the Tribunal serving their sentences in prisons in the respective Member States.

Conferences

55. The President and the Vice-President of the Tribunal, participated in meetings and workshops, which included:

- The President's participation in a judicial colloquium held at the United Nations Office at Vienna and hosted by the United Nations Division for the Advancement of Women, in commemoration of the twentieth Anniversary of the adoption of the Convention on the Elimination of All Forms of Discrimination against Women and the Tenth Anniversary of the adoption of the Convention on the Rights of the Child, where the President delivered a paper entitled "Violence against women: State-sponsored violence" and also addressed approximately 100 judges on the jurisprudence of ICTR;
- The Vice-President's participation in the sessions of the Preparatory Commission for the International Criminal Court (ICC) at United Nations Headquarters, where he presented an overview of the work and jurisprudence of ICTR.

56. Other judges also participated in conferences, meetings and workshops. Judge Lloyd George Williams addressed the twelfth Commonwealth Law Conference, held at Kaula Lumpur. His paper was entitled "War crimes and the establishment of the ICC". Judge Asoka de Zoysa Gunawardana attended the annual meeting of the American Society of International Law, held at Washington, D.C., where he participated in the panel discussion on the "Evolution of Substantive International Criminal Law through Specialized International Criminal Tribunals and the ICC" and presented a paper entitled "Significant Contributions made by the International Criminal Tribunal for Rwanda to the Development and Definition of the Crime of Genocide".

Plenary sessions

57. During the reporting period, the seventh and eighth plenary sessions were held at the seat of ICTR in Arusha and were attended by the nine trial judges and five appeals judges.

58. At the seventh plenary, held from 18 to 20 February 2000, several of the rules of the Tribunal were amended with a view to expediting and shortening trials. These amendments:

- Reduced the time limits from 60 to 30 days, in respect of pre-trial motions[8] and motions arising from the amendment of the indictment;[9]

- Now allow for the initial appearance of an accused to be conducted by a single judge, instead of a full Trial Chamber;
- Now give the defence the option of utilizing outside translation services, instead of relying on the ICTR translation section, to translate its documents,[10] thus reducing the delays caused by the translation of documents;
- No longer disqualify a judge who confirmed an indictment against an accused from sitting at the trial of that accused;
- Now authorize the President of the Tribunal to issue Practice Directions with a view to regulating proceedings before the Tribunal.

59. Discussions at the plenary also focused on the abuse of the pre-trial appeals process by some accused, who appealed decisions rendered by the Trial Chamber on pre-trial matters that were not subject to appeal. Right of appeal lies only in respect of decisions pronounced on motions pertaining to the "lack of jurisdiction". With a view to defining the preliminary matters that may be subject to appeal, the plenary adopted an amendment to rule 72, which now provides a definition of the term "jurisdiction", for the purposes of interlocutory appeals only. Rule 72 was also amended to allow for appeals of this nature to be considered by a bench of three judges, who shall make a determination on whether the appeals fall within the ambit of jurisdiction, as defined in the rule.

60. At the eighth plenary, held on 26 and 29 June 2000, discussions once again focused on the ways and means of expediting pre-trial and trial proceedings, as well as interlocutory appeals and appeals against final judgements pronounced by the trial court. The plenary adopted the amendment to rule 109, thus permitting the filing of appeal documents at the ICTR Appeals Unit, located at The Hague. It is envisaged that the amendment will reduce the delays resulting from the transmission of documents from Arusha to The Hague. Among other matters, the plenary also discussed at length the Appeals Chamber's lack of resources, including staff. It unanimously recommended that the Registrar urgently increase the resources provided to the Appeals Chamber.

IV. Judicial and Legal Services Division

61. The Division, headed by the Deputy Registrar under the supervision of the Registrar, comprises the Court Management Section, the Witnesses and Victims Support Section (P),[11] the Witnesses and Victims Support Section (D), the Lawyers and Detention Facilities Management Section, the General Legal Services Section, the United Nations Detention Facilities and the Legal Library and Reference Section. These services are the essential part of the Registry as they are intended to provide efficient and adequate support for the judicial activities. The Division organizes and supports all judicial activities, under the direction of the judges.

A. General Legal Services Section

62. Until very recently, General Legal Services was combined with the Chambers Support Section. Both sections were under the name "General Legal Services and Chambers Support Section". General Legal Services started to operate as a distinct section after the Registrar's decision published in his memo dated 10 February 2000.

63. During the period under review, the General Legal Services Section drafted the following agreements:

(a) Agreement between the United Nations and the Government of the United Republic of Tanzania on matters concerning the construction and use of the United Nations Detention Facilities in Arusha;

(b) Agreement between the United Nations and the Government of the Republic of Rwanda regarding the movement, protection and support of witnesses and victims in Rwanda;

(c) Agreement between the United Nations and the Government of Italy on the enforcement of sentences of the International Criminal Tribunal for Rwanda;

(d) Agreement between the International Criminal Tribunal for Rwanda and Nairobi Hospital for the provision of medical services to ICTR staff members;

(e) Agreement between the International Criminal Tribunal for Rwanda and the Aga Khan Hospital (Nairobi). The Agreements with the two medical institutions in Nairobi are intended to improve the billing system.

Other activities

64. As in-house counsel to the Tribunal, the Section reviewed a number of contracts and other agreements to determine their status, including advising at meetings of various administrative bodies such as the Grievance Committee, the Claims Board, the Local Committee on Contracts, the Local Property Survey Board, the Appointments and Promotions Panel and the Appointments and Promotions Board. A total of 47 such meetings were attended.

65. In addition, the Section dealt with a variety of civil cases involving the Tribunal or staff members and the host Government, such as labour disputes with domestic servants, landlord/tenant relationships, traffic cases, etc.

66. During the same period, seven warrants of arrest were transmitted to the following countries: Belgium; Denmark; France; New Zealand; South Africa; United Republic of Tanzania; United Kingdom of Great Britain and Northern Ireland. Following the transmission of the warrants of arrest, four accused have been arrested and transferred to the Seat of the Tribunal, viz:

- François-Xavier Nzuwonemeye, arrested in France;
- Augustin Ndindiliyimana, arrested in Belgium;
- Elizaphan Ntakirutimana,[12] arrested in the United States of America;
- Mikael Muhimana, arrested in the United Republic of Tanzania.

67. In order to provide quick referencing of the Rules of Procedure and Evidence, the Section has reviewed all amendments to the Rules since their adoption and an annotated version of the Rules is being finalized. It is intended that the Section will henceforth maintain an up-to-date record of all future amendments to the Rules in this way. This exercise will extend to cover all basic documents of the Tribunal.

68. Another assignment which the Section has started since its separation from the Chambers Support Section is the compilation of a summary of all judgements and outstanding judicial decisions concluded so far by the Tribunal, for publication as a United Nations document which will be available to judges, scholars, researchers and academics. This will be a useful resource of the jurisprudence being developed by the Tribunal.

69. An added dimension to the work of the Tribunal has been a growing demand for internships. The General Legal Services Section manages and coordinates an internship programme which assigns interns to various Sections in ICTR. During the period under review, a total of 46 interns from Australia, France, Italy, Malaysia, Scotland, the United Republic of Tanzania, the United Kingdom, the United States and Rwanda (six interns from the University of Butare) were assigned to the Office of the Prosecutor, the Registry and the Chambers. These interns experienced first hand the daily functioning of the ICTR. It is anticipated that in the coming years the demand for internships at the Tribunal will grow. The Tribunal encourages this development and views the internship programme as an opportunity for young lawyers, the future leaders, to gain practical experience in the public sector and acquire first-hand experience in one of the most significant developments in the international framework of accountability. This programme also provides a unique opportunity for young lawyers interested in the field of human rights to participate in the development of a challenging and innovative institution in international law.

B. Court Management Section

Introduction

70. The Court Management Section has continued to service the three Trial Chambers in Arusha and the Appeals Chamber in The Hague and to serve as a liaison between the parties and the Chambers. Unlike previous years, the present reporting period has been characterized by the hosting of three appeals hearings in Arusha.

Structural review

71. Effective 10 February 2000, the Section underwent a comprehensive review of its work, which, among other changes, saw the appointment of new staff to work under the direct supervision of the Registrar. There has been positive feedback on the impact of this

review from the Chambers, the Office of the Prosecutor and defence counsel.

72. In another bid to enhance the efficiency of court management operations in particular the Judicial Support Unit, the Section was further restructured on 24 March 2000 to create three operational teams, each supporting one Trial Chamber. Each team, headed by a court management coordinator, works as a focal point for all administrative, procedural and judicial matters concerning cases assigned to the particular Trial Chamber, serving as an interface between the Chambers, the Office of the Prosecutor, the defence and other services of the Registry as required. This arrangement has been appraised by the different offices served.

73. Furthermore, following an initiative from the Office of Legal Affairs at United Nations Headquarters, a consultant was recruited to the Tribunal for a period of five weeks to review the court management system in place at the Tribunal and to make appropriate recommendations. He worked alongside the staff of the Section at all levels, had the opportunity to consult the judges, representatives of the Office of the Prosecutor, defence counsel and senior managers of other administrative sections of the Registry whose work impacts on the smooth running of the Court Management Section.

Appeals Chamber

74. During the reporting period, the Registry designated two Legal Officers, two Documents Assistants and other support staff to exclusively handle appeals matters in Arusha. This arrangement has registered achievements in expedited reproduction of the usual bulky books of authority, records on appeal and other documents. It has also facilitated transmission, distribution and filing.

Judicial archives

75. The digitization of the judicial records has been completed. The major benefits of this important project are that access and retrieval of the most frequently used documents has been facilitated. Tribunal staff can now access documents from their desktops. Another important aspect of this project is that preservation of the records has now been enhanced. TRIM is compatible with current record-keeping systems. This means that research will be facilitated to a great extent upon the completion of the Tribunal's mandate. Remote external users will be able to access the judicial documents via the Internet.

76. Additionally, copies of the record-keeping system database have been and will continue to be made on CD-ROM both as a backup and as part of the Tribunal's commitment to risk management. Plans are also under way to transfer a large part of the audiotapes in the Tribunal's collection to CD-ROM as a form of preservation.

77. All users of this system, including the judges, are being trained in the use of TRIM.

C. Witnesses and Victims Support Section

Judicial activities

78. The Witnesses and Victims Support Section produced before Trial Chamber I, in the matter of *The Prosecutor* v. *Ignace Bagilishema*, 19 protected prosecution witnesses, three of whom were detainee-witnesses from Kigali and an expert witness. For the defence, 15 witnesses were called, from a total of 12 different countries. In the matter of *The Prosecutor* v. *Georges Ruggiu*, one defence protected witness was called.

79. In addition, the Section has intensified its post-trial monitoring activities in the countries of residence of the witnesses who appeared before the Tribunal. Many such witnesses have also enjoyed a wide range of assistance aimed at improving their psychological rehabilitation. The Section also successfully enlarged the network of countries willing to cooperate with the Tribunal in the area of witness management.

Coordination with other Governments

80. In order to fully discharge its mandate, the Section successfully negotiated with the relevant Governments of countries where it had never before operated, for the provision of temporary travel documents, enabling the witnesses to travel to and from Arusha. Most defence witnesses were virtually stateless within the countries they resided. Without the cooperation of countries such as Benin, the Congo, France, Kenya, Mozambique, Mauritania, Swaziland, Rwanda, the United Kingdom, Zambia and Zimbabwe, none of the witnesses would have been able to be heard

by the Tribunal. The Tanzanian Government has also facilitated the entry and exit of the witnesses.

81. Throughout the year, the Section has pursued its policy of building up a long-lasting framework of cooperation between the many countries in which witnesses may reside. Efforts are under way to induce additional countries to agree to relocate in their territories witnesses who may find themselves at risk as a result of having testified before the Tribunal. In the meantime, the Section has enjoyed excellent cooperation from the regional UNHCR agencies of the Office of the United Nations High Commissioner for Refugees which have availed themselves of the opportunity of assisting the Tribunal in the facilitation of the movement and the protection of witnesses in countries such as Benin, Togo, Swaziland, the Congo and Kenya.

Internal and external cooperation by the Witnesses and Victims Support Section

82. Pursuant to its policy, the Section has enhanced the understanding of the Member States as regards witness matters. It has enlisted their further cooperation and obtained further assistance in relation to witness protection issues. The Section has provided in-depth briefings to various visiting VIPs on the operation and the achievements of the Section. Members of the Section have attended various workshops where they have had an opportunity to describe their experiences.

83. The Witnesses and Victims Support Section has also completed an Operational Guidance Manual, a reference book to be published in the near future, which will serve as a tool for experts in the field of witness protection under the auspices of the international community.

84. Enhancement of the skills and the career development of its personnel has been the primary aim of the Section in implementing its successful training programme, which covers firearms qualification and studies in human psychology, with a specific focus on post-traumatic stress disorder.

85. Security aspects of its operations have been improved and its secure locations for accommodations for witnesses were upgraded.

86. In a more recent development and in anticipation of an increase in the workload of the Witnesses and Victims Support Section with the concurrent functioning of three Chambers hearing several joint trials, the Section was reconstituted into two separate sections, Witnesses and Victims Support Section (Defence) and Witnesses and Victims Support Section (Prosecution), with a view to ensuring more effective service and the avoidance of any possible conflict of interest in servicing the prosecution and the defence.

87. These arrangements, which effectuated in March 2000, are geared at ensuring that all aspects of confidentiality, support and protection will be catered for, at the pre-trial, the trial and the post-trial monitoring stage.

D. Lawyers and Detention Facilities Management Section

88. Consistent with international legal standards, accused persons are free to retain defence counsel of their choice and, where unable to do so, are assigned defence counsel. In the latter case, they may choose from a list of counsel from all parts of the world who are qualified and have indicated an interest in serving 42 indigent suspects or accused appearing before the Tribunal. As of 30 June 2000, the Tribunal had assigned a total of 60 defence counsel to its detainees. All the detainees have claimed to be indigent and have requested the Tribunal to assign counsel to them. The assigned counsel are remunerated by the Tribunal. Of the 60 counsel assigned so far, 21 are from Europe, 15 are from Africa and 24 are from North America. The temporary moratorium against assignment of counsel from over-represented countries, in effect since November 1998, has been lifted.

89. It has been one of the main priorities of the Tribunal to ensure an efficient administration for the appointment of defence counsel to all indigent suspects and accused appearing before the Tribunal. In constructing an international legal aid system for the Tribunal, aspects of the various legal systems of the world have been combined and cultural differences have been taken into account, in recognition of the fact that the Tribunal is an international tribunal and that defence counsel come from all around the globe. This has resulted in the development of a unified practice of international defence-counsel administration which, moreover, has been codified by rulings of the Trial Chambers in several cases.

90. The human resources available to the Section have increased with new recruitment, enhancing its ability to meet the heavy workload inherent in its responsibilities. It embarked on an exercise designed to inform lawyers worldwide about defence counsel opportunities at the Tribunal. Documentation was sent to legal and bar associations throughout the world to acquaint them with the requirements and criteria for inclusion in the roster of potential defence counsel. The required application forms were also distributed. The response has been positive and has enriched the pool of potential defence lawyers.

91. The Rules of Procedure and Evidence of the Tribunal were amended at the seventh plenary session in February 2000 to allow judges to impose sanctions against counsel if he or she brings a motion that, in the opinion of the Chamber, is frivolous or is an abuse of process. The Directive on Assignment of defence counsel was also amended during the same plenary session to reinforce the confidentiality of the investigation process conducted by the Registry for the purpose of establishing whether the suspect or accused satisfies the requisite conditions for assignment of counsel.

92. To improve the management of the funds allocated to the programme of legal aid it has been decided to intensify investigations related to the indigence of accused persons. In this regard the cooperation of several countries (Benin, Belgium, Burkina Faso, Cameroon, France, Côte d'Ivoire, Kenya, Mali, Namibia, South Africa, Switzerland, Togo, United States of America and Zambia) has been sought in order to obtain information about the assets of accused in the jurisdiction of those States. To date, no information has been received from them.

E. Legal Library and Reference Section

93. In the course of the past year, the Legal Library and Reference Section continued to expand its activities by improving service to readers, particularly through the introduction of new online products such as Westlaw, Lawtel and Proquest. As a result of the heavy influx of staff of the Office of the Prosecution transferred from Kigali to Arusha the judicial collection of books and subscriptions is growing rapidly and the number of requests and research services requested has become more numerous and exigent.

94. New developments in online products have had a positive impact on the work of the Tribunal since lawyers have been able to access information easily, particularly from legal databases through the use of personal passwords, which allows them permanent access. Access to legal databases has been facilitated as a result of a recent donation of Westlaw, one of the largest legal databases in the world, by the WestGroup and the National Bar Association of the United States.

95. Furthermore, the Library has continued to publish the ICTR Quarterly Bibliography, which is becoming a basic tool of reference for all those interested in international criminal law. The bibliography is drawn from the ICTR database which to date remains the only database specialized in international criminal law. The interest raised by the bibliography, which is also available on the ICTR web site, reflected in the fact that it is distributed to more than 500 institutions (libraries, NGOs, embassies, courts, ministries and universities), including the worldwide network of libraries linked with the United Nations. In the light of its worldwide dissemination, the numerous subscription requests and the positive reactions received from the different recipients, the bibliography has become an essential instrument for the propagation of the Tribunal's jurisprudence.

96. Special attention was also given to the establishment of a mini-library at the ICTR United Nations Detention Facility at Arusha for the use of detainees. The first set of books has been delivered and new orders are being processed to stock the facility.

97. The ICTR Arusha Library must envisage expanding its present location in order to continue giving quality services and the Kigali branch is currently being relocated to modern premises and equipped to better respond to the needs of its users.

98. Thus the most important recent developments in the Library Unit based in the Office of the Prosecutor in Kigali are the increase in size of the book collection, the inclusion of the ICTR bibliographical database in the local network of the Office and the introduction of new information retrieval tools (Westlaw, Lawtel, United Nations optical disk system). In the light of these developments and significant diversification of the activities of the Arusha Library and the Kigali branch in the past few months as well as the increasing needs of the clientele, it is envisaged that the enhanced utilization of new information technologies will

reinforce the efficient and expeditious services rendered to users, so that the Library can continue to play a key role in the work of the Tribunal.

F. United Nations Detention Facility

Detainee population

99. The current number of detainees/prisoners at the Facility and Annex is 42. This includes one prisoner who was convicted by the ICTR whose appeal has been dismissed, six convicted prisoners who have since appealed their convictions, one prisoner who has not filed an appeal against his conviction and sentence, and 35 detainees, including one woman, all awaiting trial before the Tribunal.

100. During the reporting period the Detention Facility received eight new detainees, as follows (in order of date admitted):

- Jerome Bicimumpaka, 31 July 1999, transferred from Cameroon;
- Justin Mugenzi, 31 July 1999, transferred from Cameroon;
- Prosper Mugiraneza, 31 July 1999, transferred from Cameroon;
- Mika Muhimana, 8 November 1999, transferred from the United Republic of Tanzania;
- Jean de Dieu Kamuhanda, 7 March 2000, transferred from France;
- Elizaphan Ntakirutimana, 24 March 2000, transferred from the United States;
- Augustin Ndindiliyimana, 22 April 2000, transferred from Belgium;
- François-Xavier Nzuwonemeye, 23 May 2000, transferred from France.

Improvements at the Detention Facility

101. Over the past 12 months improvements have been made to the Detention Facility, which have included the following:

(a) Provision of each compartment with an outdoor eating area equipped with a table, two benches and roof. A green space has been provided in each compartment and is maintained by the detainees;

(b) Installation of eight computers and three printers, as well as 12 televisions and 8 VCRs, in each cell block;

(c) Installation of wire protectors in the cells occupied by the detainees;

(d) Construction of a protective hangar in the central corridor of the Facility;

(e) Installation of concrete slabs in all principal passageways at the Facility;

(f) Construction of four additional lawyers booths, as well as restroom facilities for the lawyers. This brings the total number of lawyers booths to 13;

(g) Construction of an open recreational area to be used for basketball and volleyball;

(h) Execution of final stages of construction of a room for family visits;

(i) Construction of an additional administrative office block;

(j) Construction of four telephone booths to ensure privacy in communications among detainees;

(k) Completion of a short-stay room for ill detainees;

(l) Construction of two additional segregation walls, as well as the modification of an existing wing to house Rwandan prisoners brought to Arusha to testify before the Tribunal.

G. Gender issues and assistance to victims

102. The Victims and Gender Support Unit has continued to provide advisory services to the Registrar in matters pertaining to victims and witnesses, especially as regards its gender aspects. During the past year, the Victims and Gender Support Unit has achieved the following:

(a) Oversaw and implemented activities of the Support Programme to Witnesses and Potential Witnesses. NGOs already operational in Rwanda have been selected to provide services in the various prefectures where the Tribunal has selected witnesses or identified potential witnesses. These NGOs provide services in legal guidance, psychological and medical rehabilitation and other forms of assistance such as resettlement. The unit monitors the provision of

services to witnesses and potential witnesses by the contracted NGOs;

(b) The unit, through its counsellors, provides counselling services in Kinyarwanda both in Kigali and Arusha, identifies the psychological needs of traumatized potential witnesses and witnesses, especially those of female victims of sexual violence, and provides a timely response to these needs at all stages (investigative stage, during trial and post-trial). Witnesses and potential witnesses also receive basic physical rehabilitation by a nurse to ensure they are in good health when the time comes to testify. A legal guidebook is in the final stages of preparation and will provide information to victims and potential witnesses regarding their rights, participation in court proceedings as well as information about the Tribunal and court proceedings. The guide has been prepared using simplified language and drawings so that it is accessible to most of the Rwandese population. It will be published in Kinyarwanda, French and English;

(c) The unit has participated in ICC meetings, working closely with women's organizations to ensure gender sensitivity within the ICC Rules of Procedure and Evidence;

(d) The unit also provided substantive input in Indonesia (Jakarta), Rwanda (Kigali) and South Africa (Cape Town) by sharing the experiences of the Rwanda Tribunal in the areas of victims and gender issues.

V. Division of Administration

103. The Division of Administration is primarily responsible for providing services for all activities of the Tribunal in the areas of human resource management, budget, finance, language and conference services, general services, transport, communications, information technology, security services, procurement and building management services.

104. The General Assembly in its resolution 53/213 of 18 December 1998 appropriated US$ 75,260,600 gross ($68,531,900 net) for the Special Account for the International Criminal Tribunal for Rwanda for the period from 1 January to 31 December 1999. This budget authorized 772 posts, which was an increase of 190 posts over the previous year. In 1999, the total expenditure amounted to $70,111,600 gross ($64,156,600 net) and resulted in an unencumbered balance of $5,149,000 gross ($4,375,300 net).

105. In its resolution 54/240 A of 23 December 1999, the General Assembly approved the appropriation to the ICTR Special Account on a provisional basis, the amount of $86,154,900 gross ($78,170,200 net) for 2000. The annual budget authorized 810 posts, an increase of 38 posts over the authorized staffing level in 1999. In its resolution 54/240 B of 15 June 2000, the Assembly confirmed the appropriation that had been provisionally approved. The overall level of resources related, inter alia, to the simultaneous functioning of three Trial Chambers, the heightened activities in investigations, the arrest and transfer of detainees, as well as major enhancements envisaged for the delivery of support services.

106. The Voluntary Trust Fund to support the activities of the International Tribunal for Rwanda was established pursuant to General Assembly resolution 49/251 of 20 July 1995 and in response to Security Council resolution 955 (1994) of 8 November 1994. In 1999, the Tribunal through its trust fund provided resources to support numerous projects that were directly related to the fulfilment of its mandate, including sponsorship of international interns, a support programme for witnesses and potential witnesses, a recruitment task force, an outreach programme, enhancement of the Tribunal's communication facilities and the leasing of a fixed-wing aircraft. As at 31 December 1999, total contributions to the Trust Fund from 19 Member States amounted to $7,848,996 and the expenditure for the year amounted to $1,353,635.

107. In 2000, the Tribunal through its trust fund will continue funding established programmes initiated in previous years and will seek to provide financial support to new projects recommended by the Trust Fund Advisory Board. These projects include the connectivity of Evidence Database software applications, the conversion of documents into a digital medium, a preservation project for evidentiary materials and the purchase of equipment for the reproduction of courtroom exhibits. The estimated funding of the trust fund activities for 2000 is $869,100.

108. During the period under review, the activities of the Division of Administration were primarily focused on obtaining and constructing adequate office space for Tribunal staff members, infrastructure improvements, enhancement of the Tribunal's information technology networks, the engagement of new ICTR staff members

through the effective work of the Recruitment Task Force and implementation of the extended Delegation of Authority in Human Resources Management.

109. The provision of office space within the Arusha International Conference Centre (AICC) to accommodate the Tribunal's growing number of staff members remained an important issue for the Tribunal throughout 1999 and early 2000. As a temporary measure, office space was secured outside AICC to accommodate the growth in ICTR staff. In 2000, however, in part owing to the intervention of the host government, the Tribunal was provided more office space within the management of AICC. The Tribunal also successfully concluded negotiations with AICC leading to the signing of a four-year lease agreement, effective November 1999. Under the agreement, for the first two years of the contract, the Tribunal will pay $9.00 per square metre of useable office space. For the remaining two years of the contract, ICTR agrees to pay $9.90 per square metre. In view of the renegotiated lease agreement and the provision by AICC of additional office space in which the Tribunal occupies a total of 10 floors in the three wings of the conference centre, ICTR is convinced that it will now be able to accommodate its entire staffing and storage requirements within AICC.

110. During the same period, the ICTR Health Services Unit (Clinic) was established to provide basic primary health care services to Tribunal staff and their dependants, detainees and witnesses. The unit also issues medical clearances, makes referrals to other facilities and, in consultation with the Chief of Administration, authorizes medical evacuations.

111. In mid-2000, ICTR completed the construction of its vehicle repair workshop. In view of the local costs of spare parts and labour related to the repair of vehicles, it is hoped that operation of the workshop will significantly decrease future expenditures of this nature.

112. In the area of infrastructure improvement, the Tribunal in mid-2000 concluded a major project to renovate and expand the Kigali offices, which included the erection of a security perimeter wall around the Amahoro compound and the construction of 75 prefabricated offices urgently needed to house staff members in the Office of the Prosecutor.

113. An equally important project undertaken in 1999 and 2000 involved the expansion and improvement of the United Nations Detention Facility. Additional segregation cells were constructed to accommodate and isolate detainees, new administrative offices were built, telephone and lawyer booths were installed and the kitchen facilities were expanded and upgraded. The Tribunal is now studying the possibility of acquiring additional land adjacent to the current Detention Facility for future expansion to house the increasing number of detainees and temporarily accommodate convicts awaiting transfer to permanent facilities.

114. In the areas of information technology and electronic data processing two significant activities were undertaken during the period under review. As regards the Y2K event, an international consulting firm was engaged to assess the Tribunal's preparedness. The consultants identified all non-compliant computers and software, pointing to the need to purchase replacement equipment. With the installation of the Y2K-compliant computers and software, the Tribunal was rendered Y2K-compliant, particularly with regard to its telephone, payroll, courtroom and computer services. The same international consulting firm was engaged to customize and modernize the payroll and accounting systems. As part of the Y2K compliance measures, the network operating system was changed to Windows NT. Arrangements were made with the United Nations Office at Nairobi to obtain a copy of its Y2K-compliant payroll and accounting systems. At the time of writing of the present report, it was anticipated that after the training of the EDP staff on the administration and maintenance of the new Sybase and Power Builder systems, the payroll and accounting systems would become operational within a two-month period, thus preparing the Tribunal for the anticipated delegation of authority to process its international payroll.

115. Throughout the period under review, the Tribunal continued its emphasis on information technology/electronic data processing. In order to address recurrent communications connectivity problems and ensure the access of the international community to the Tribunal web site, the electronic repository of ICTR decisions and judgements, the management of the Tribunal, with the assistance of the Information Technology Services Division at United Nations Headquarters, undertook a comprehensive review of the Tribunal's communications facilities with a view to significantly enhancing the functioning of its EDP and telecommunications systems. Substantial human as well as non-post-related resources have been

requested in the 2001 budget submission to facilitate the recommendations proposed in the report emanating from the comprehensive review. The proposed enhancements will greatly improve the networks at Arusha, Kigali, The Hague and New York, assure a reliable and accessible web site and address ICTR communication connectivity problems.

116. As reported in its fourth annual report (A/54/315-S/1998/943), ICTR in consultation with the Office of Human Resources Management established a Recruitment Task Force to address the Tribunal's significant vacancy rate, which at 1 January 1999 was reported at 36 per cent, or 277 vacant posts. The Task Force, composed of the Head of the Task Force, one Recruitment Officer, two classification consultants and two Recruitment Assistants, was fully supported by the Personnel Section. At the completion of its mandate on 31 August 1999, the Task Force had successfully reduced the vacancy rate at the Tribunal to 23 per cent, with a further reduction to 17.7 per cent, achieved by 31 December 1999. At the completion of the work of the Task Force, the total number of countries represented at the Tribunal was 81, with 36 per cent of the staff from outside the African continent. By 1 December 1999, a total of 84 countries were represented in the Tribunal's staffing, 43 countries from outside Africa and 39 from the continent. With regard to gender representation at the Professional level, as at 31 August 1999, ICTR had a total of 209 Professionals, consisting of 52 female and 157 male staff members. At that time, 3 out of 13 P-5 staff were female, amounting to a ratio of 18 per cent of the total incumbency of those posts. By 31 October 1999, female staff members encumbered 79 of the 211 Professional posts, representing a level of 27 per cent.

117. Finally, an assessment of the level of education and experience of the Professional staff recruited by the Task Force showed that 87 per cent possessed experience and qualifications above the requirement, while 13 per cent met the specific requirements of their posts.

118. Another important aspect of human resources management was the additional delegation of authority granted the Tribunal. The additional delegation pertained to the following areas of administration: education grant; language proficiency; benefits and allowances; and delegation of authority in classification matters.

119. Though the Tribunal will continue to be engaged in the pursuit of substantive reform while striving to improve the efficiency and cost-effectiveness of its operations, the thrust of the Division of Administration in the immediate future will focus primarily on the enhancement and modernization of its information technology systems.

VI. Office of the Prosecutor

120. During the period under review, the Office of the Prosecutor continued to implement and to consolidate a strategy that was initially set out in May 1997. According to the Prosecutor, this strategy is two-pronged, consisting essentially in (a) investigations of persons wielding authority of State during the genocide — more precisely, targeting political and military officials at the highest levels and attempting to elicit proof that they conspired among themselves to organize and execute the genocide; and (b) organizing trials on the basis of multi-defendant joint indictments. The prosecution theory of conspiracy was put into practice through joint indictments thematically based upon the accused's sphere of intervention (the media, for example), or regionally specific, on the basis of the accused's sphere of influence (e.g., Butare *préfecture*).

121. Appellate challenges by both Omar Serushago and Jean Kambanda against the conviction and sentencing consequent upon their guilty pleas of the previous year occasioned a thorough in-house review of prosecution policy. The Appeals Chamber confirmed the Trial Chamber I judgement sentencing Omar Serushago to 15 years imprisonment, but it has not yet rendered a decision in the matter of Jean Kambanda's appeal of his guilty plea. According to the Prosecutor, neither case, regardless of the Appeals Chamber decision, is likely to alter the prosecution theory of conspiracy which finds much support in the voluminous statements each of the appellants made to investigators from the Office of the Prosecutor prior to their convictions, or indeed prior to their appeal of those convictions.

122. Appellate review of the Appeals Chamber's decision of 3 November 1999 dismissing the indictment against Jean-Bosco Barayagwiza challenged the Office of the Prosecutor to marshal a plethora of documents and to reconstruct a history of office procedures. The Prosecutor's arguments, both legal and factual, successfully countered the Appeals Chamber's

initial finding of lack of prosecutorial diligence in arranging the appellant's transfer from Cameroon to the United Nations Detention Facility in Arusha. With little or no impact on the *theory* or *strategy* of prosecution per se, the Prosecutor is of the opinion that this review proceeding has nonetheless provoked changes in the Prosecutor's arrest policy: henceforth, suspects will be detained and transferred to the Tribunal on the basis of confirmed indictments and international warrants of arrest, and rule 40 bis will be invoked in exceptional circumstances only.

A. Consolidation of the investigations and prosecution strategy

1. Organization of the Office of the Prosecutor

123. The Office of the Prosecutor is composed of four sections: the Investigations Unit; the Trial Section; the Legal Advisory Section; and the Information and Evidence Section.

(a) Investigations Unit

124. The Investigations Unit is composed of 112 posts, 94 of which are encumbered by investigators. A Director of Investigations heads the unit. During the current reporting period the Director's post was encumbered by Cees Hindriks, who assumed the office on 26 April 1999 and remained in the post until his resignation, effective 31 March 2000. The current Director of Investigations, Laurent Walpen, was appointed on 1 May 2000. A Commander of Investigations assumed the responsibilities of Director ad interim during the intervening period.

125. The Investigations Unit is organized into eight investigation task forces, each headed by a coordinator. Commanders of Investigations direct the work of the task force coordinators and report directly to the Chief of Investigations. Task forces investigate governmental and administrative authorities, military authorities, extremist political parties and militias, and media executives and spokespersons. One task force is specifically assigned to investigate crimes of sexual violence.

126. There are three Commanders of Investigations, each of whom is in charge of two task forces. There are usually at least 10 investigators assigned to a single task force. The Chief of Investigations directly manages two specially designated task forces that address matters of a highly sensitive nature.

(b) Trial Section

127. A Director of Prosecutions coordinates the collective efforts of the entire Legal Section, which is composed of a Trial Section and a Legal Advisory Section. The Trial Section is composed of 7 Senior Trial Attorneys, 10 Trial Attorneys and 5 Assistant Trial Attorneys. The Senior Trial Attorney leads a team of prosecution counsel, trial attorneys and assistant trial attorneys in bringing a series of indictments to trial and directs and manages the day-to-day affairs of the litigation. Each of the seven trial teams are thematically or regionally organized, in approximate correspondence with the investigation task forces. The entire Trial Section, including the Chief of Prosecutions, is based in Arusha.

(c) Legal Advisory Section

128. The Legal Advisory Section is composed of 10 legal advisers. A Senior Legal Adviser coordinates the work of the entire section and reports directly to the Chief of Prosecutions and the Deputy Prosecutor. Although the section is informally divided into teams of legal advisers assigned to investigations and prosecution, respectively, the demands of the prosecution strategy require that the entire Legal Advisory Section work on a thoroughly consolidated basis. The Legal Advisory Section is based in Kigali.

129. The Section is responsible for supporting the trial teams with legal research and legal opinions to guide and advance the litigation. It acts as a drafting committee for indictments and works in close collaboration with the investigation task forces. Under ideal circumstances, a legal adviser is specifically assigned to each task force. As a rule, legal advisers thoroughly review the witness statements and documentary evidence collected by investigators and offer guidance on investigation strategy, particularly concerning data collection.

130. The Office of the Prosecutor in Kigali regularly collaborates with its counterpart in The Hague. Each office, particularly the corresponding Legal Advisory Sections, collaborates in joint projects of indictment review and in the drafting of legal opinions and memoranda of law. This exchange promotes

consistency in approach between IFTY at The Hague and ICTR at Kigali.

(d) Information and Evidence Section

131. The Information and Evidence Section is responsible for managing, indexing, preserving and presenting the documents and physical exhibits collected by investigators and facilitating the dissemination of evidence-related information throughout the Office of the Prosecutor. The section includes an Archives Unit, tasked with organizing a collection of audio and video cassettes and media exhibits. This unit also manages the inventory of documents available to the Office of the Prosecutor.

2. Priorities in investigations

(a) Continuing investigations of conspiracy to commit genocide

132. The Prosecutor is of the view that the systematic, generalized and methodical nature of the crimes that were perpetrated throughout Rwanda during 1994 gives rise to the inference of coordination, hence conspiracy, to destroy in whole or in part the Tutsi, as such. Consequently the Office of the Prosecutor attaches high priority to a line of investigation that is likely to develop substantive proof of conspiracy. New investigations teams have been established to specifically target political, military and administrative institutions that were operative during the genocide. Investigators travel throughout Rwanda, as well as to Europe and all across the African continent, in search of proof and information that will generate arrests and convictions of the organizers of the genocide.

(b) Investigations of sexual violence

133. As a result of a study conducted internally by the Office of the Prosecutor in December 1998, investigators were able to document the incidence and widespread nature of sexual violence during the genocide. An analysis of witness accounts confirmed that sexual crimes were planned, systematic and generalized. Crimes were committed with the direct participation of soldiers in active duty, the *Interahamwe* and political and administrative authorities at the local as well as the national level.

3. Results of investigations

(a) Witness statements

134. Witness statements are the building blocks upon which the prosecution directly bases its case. The testimony of witnesses at trial is the principal form of evidence that the Prosecutor places at the disposal of the Trial Chambers. During the reporting period, investigators collected over 600 witness statements concerning crimes committed within the temporal and material jurisdiction of the Tribunal. A total of 113 witness statements specifically address crimes of sexual violence, targeting suspects across the entire socio-professional spectrum of Rwandan society (military, political administration, media, etc.).

(b) Tracking team operations

135. In 1999, the intelligence network put in place by the Office of the Prosecutor and the tracking team's aggressive approach were determining factors in the arrests of seven suspects. Operations were conducted in Kenya, South Africa, Cameroon, the United Republic of Tanzania, France, Belgium, the United Kingdom and Denmark. The seven new arrests concern highly placed military authorities, a minister of the interim Government and the long-awaited extradition of a prominent clergyman:

- Jean de Dieu Kamuhanda, Minister of Culture and Higher Education, arrested in France on 26 November 1999;
- Tharcisse Muvunyi, Commandant of the École de sous-officiers, arrested in the United Kingdom on 5 February 2000;
- Augustin Ndindiliyimana, Chef du personnel of the Gendarmerie nationale, arrested in Belgium on 29 January 2000;
- François-Xavier Nzuwonemeye, Commandant of the Bataillon de reconnaissance, arrested in France on 15 February 2000;
- Innocent Sagehutu, Commandant of the second Bataillon de reconnaissance, arrested in Denmark on 15 February 2000;
- Mikaeli Muhimana, Conseiller municipal in Gishyita, arrested in the United Republic of Tanzania on 8 November 1999;

- Elizaphan Ntakirutimana, Pastor in Kibuye and Cyangugu, arrested in the United States and transferred to Arusha on 24 March 2000.

The success of these operations was the product of the assistance and the exemplary cooperation that the Office of the Prosecutor received from the national authorities in the following countries: Cameroon; France; United Kingdom; Belgium; Denmark and Tanzania.

136. Six of the seven detainees have been transferred to the United Nations Detention Facility at the seat of the Tribunal in Arusha. Only Innocent Sagehutu and Tharcisse Muvunyi remain in the custody of the national authorities at the place of their arrest.

137. At present, 42 detainees are currently detained under the jurisdiction and control of the Tribunal.

B. Realignments in the prosecution strategy, in response to continuing investigations

Trials of multi-defendant joint indictments, and joint trials pursuant to motions for joinder of accused

138. During the reporting period, the Office of the Prosecutor continued to pursue the strategy of joint trials of multi-defendant cases by filing joint indictments, in the first instance, or by filing motions for joinder of accused to consolidate several indictments in a single proceeding for trial. The objective is to maximize efficiency in the use of judicial resources, to spare victims and witnesses the inconvenience, exposure and emotional burden of having to repeat their testimony in several trials, and to facilitate proof of the conspiracy to commit genocide, the theory that undergirds the prosecution. In mid-August 1999, the Trial Chambers organized a marathon session of pre-trial motions for all pending indictments, specifically calling for the disposition of pending and anticipated motions for amendments of indictments and motions for joinder of accused. The results were as follows:

- *Butare* cases: the following four indictments were severally amended and consolidated for trial: *Sylvain Nsabimana and Alphonse Nteziryayo* (ICTR-97-29-I); *Pauline Nyiramasuhuko and Shalom Ntahobali* (ICTR-97-21-I); *Joseph Kanyabashi* (ICTR-96-15-I); and *Elie Ndayambaje* (ICTR-96-8-I);
- *Cyangugu* cases: the indictment against *Andre Ntagerura* (ICTR-96-10A-T) was consolidated with the joint indictment of *Immanuel Bagambiki and Samuel Imanishimwe* (ICTR-97-36-T);
- "*Military*" cases: the following indictments were consolidated for trial: *Théoneste Bagosora* (ICTR-96-7-I); *Gratien Kabiligi and Aloys Ntabakuze* (ICTR-97-30-I); and *Anatole Nsengiyumva* (ICTR-96-12-I);
- "*Media*" cases: the several indictments against *Jean-Bosco Barayagwiza, Ferdinand Nahimana and Hassan Ngeze* were consolidated for trial.

139. Among the several Prosecutor's applications for joinder of accused, only the motion to consolidate the four separate indictments of the "*Government*" cases was denied. However, the "*Government*" cases already consisted of three joint indictments: *Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera, and Felicien Kabuga* (ICTR-98-44-I); *Casimir Bizimungu, Justin Mugenzi, Jerôme Bicamumpaka, and Prosper Mugiraneza* (ICTR-99-50-I); *Jean de Dieu Kamuhanda and A... N...* (ICTR-99-54-I); and the single indictment against *Éliezer Niyitegeka* (ICTR-96-14-I). Despite a plethora of defence motions for severance, Trial Chamber II only granted the motion to sever filed by *Juvénal Kajelijeli*. The "*Government*" cases will proceed to trial of multi-defendant indictments against four or five accused at a time, an apparent endorsement of the Prosecutor's strategy of grouping cases for trial, even though the court has pared the scale of the litigation anticipated by the Prosecutor's motion.

C. Judicial activities of the Office of the Prosecutor

140. During the reporting period, the Office of the Prosecutor presented four new indictments for confirmation. These indictments have been brought against 14 persons, accusing them of crimes falling within the jurisdiction of the Tribunal.

141. Pre-trial motion practice concerning the indictments currently pending before the Trial Chambers has given rise to numerous applications by

the parties. During the reporting period, the Office of the Prosecutor has filed or responded to 191 motions on various matters; most notably, defence challenges of defects in the form of the indictment. Other motions include Prosecutor's witness protection motions; defence challenges of the legality of the arrests of the accused and seizure of evidence; defence applications for additional disclosure of evidence by the Prosecutor; and defence applications challenging the jurisdiction of the Trial Chamber, including challenges to the composition of the Trial Chambers and applications for recusal of judges.

142. Particularly noteworthy are several defence motions that the Tribunal should require the Office of the Prosecutor to investigate the plane crash of 6 April 1994 that claimed the life of President Habyarimana, and defence motions that the Tribunal should release to the defence a confidential internal office memorandum authored by a former employee of the Office of the Prosecutor in 1997. Coupled with motions challenging the jurisdiction of the Tribunal, this series of defence motions signals the increasing politicization of the defence strategy. Whereas formerly the defence simply attempted to challenge the credibility or reliability of the prosecution's direct case, or attempted to establish an effective alibi defence, this new series of defence applications signals a challenge to the *characterization* of the violence during the genocide.

143. During the reporting period, the Office of the Prosecutor, apparently for the first time, invoked Prosecutor's Regulation No. 1 (1999), as amended on 21 October 1999, to facilitate a *commision rogatoire internationale* by the Direction Centrale de la Police Judiciaire in Paris, under the stewardship of the French judge Jean-Louis Bruguière. Although this procedure did not directly involve the Trial Chambers, it nonetheless implicates the Office of the Prosecutor in judicial activities with possible consequences for subsequent litigation before the Tribunal.

1. Substantive trials on the merits

The Prosecutor v. Georges Rutaganda (ICTR-96-3-T)

144. The trial commenced before Trial Chamber I on 18 March 1997 but suffered periodic interruptions because of the ill-health of the accused. The Prosecutor closed its case on 29 May 1998. Trial resumed for the defence case on 8 February 1999. The defence closed its case on 23 April 1999. Closing arguments were held on 16 and 17 June 1999. Trial Chamber I delivered its judgement on 6 December 1999, finding Georges Rutaganda guilty of genocide and crimes against humanity (murder and extermination) and sentencing him to life imprisonment.

The Prosecutor v. Alfred Musema (ICTR-96-13-T)

145. The trial commenced before Trial Chamber I on 25 January 1999. The prosecution's direct case consisted of testimony by 22 protected witnesses, one investigator and one expert witness, and closed on 7 May 1999. The defence case opened on 10 May 1999 and consisted of testimony by the accused and five other witnesses. The defence closed its case on 23 June 1999. Closing arguments were heard on 25 and 28 June 1999. The Trial Chamber I judgement and sentence was issued on 27 January 2000. Alfred Musema was convicted of genocide, crimes against humanity (extermination and rape) and sentenced to life imprisonment.

The Prosecutor v. Ignace Bagilishema (ICTR-95-1A-T)

146. The trial commenced before Trial Chamber I on 27 October 1999. The prosecution's direct case consisted of testimony by 15 protected witnesses, two investigators and one expert witness — a total of 18 witnesses — and closed on 17 February 2000. The defence case commenced on 25 April 2000 and consisted of testimony by 15 witnesses: the accused, 12 protected witnesses and 2 expert witnesses. The defence closed its case on 9 June 2000. Closing arguments of the parties were heard from 4 September to 7 September 2000, when Trial Chamber I issued a Scheduling Order for the Prosecutor to file a rebuttal. The matter is currently pending before the Trial Chamber.

2. Convictions on the basis of a plea of guilty

The Prosecutor v. Georges Ruggiu (ICTR-97-32)

147. The accused was arrested on 23 July 1997 in Mombasa, Kenya. Despite an initial period of vigorous pre-trial litigation, the accused conferred with his counsel and, following extensive discussions between defence and prosecution counsel and a lengthy series of interviews between investigators from the Office of the Prosecutor and the accused, as supervised by defence

counsel, on 15 May 2000 Georges Ruggiu appeared before Trial Chamber I and withdrew his earlier plea of not guilty and entered a plea of guilty to charges of direct and public incitement to commit genocide and crimes against humanity. On 1 June 2000, Trial Chamber I accepted the plea of guilty and sentenced Georges Ruggiu to 12 years imprisonment on each count, to run concurrently.

3. Appellate proceedings

The Prosecutor v. Jean-Bosco Barayagwiza (ICTR-97-19-A)

148. The accused was arrested in Cameroon on 15 April 1996 and transferred to the United Nations Detention Facility in Arusha on 19 November 1997. By a decision issued on 3 November 1999, the Appeals Chamber reversed the previous Trial Chamber ruling that the record of a pre-trial hearing had failed to demonstrate that the ICTR Prosecutor was responsible for the extensive delay in transferring the accused to Arusha, or that the court lacked jurisdiction over the accused. The Appeals Chamber dismissed the indictment against the accused and ordered his release, with prejudice to the Prosecutor. Upon application from the Prosecutor, the Appeals Chamber granted a request to review its dismissal of the indictment pursuant to rule 120. The matter was argued before the Appeals Chamber on 22 February 2000. By a decision issued on 31 March 2000, the Appeals Chamber altered its previous ruling on the basis of "new facts" offered by the Prosecutor and reinstated the indictment against Jean-Bosco Barayagwiza. The indictment against Barayagwiza was subsequently consolidated with those of two other "*Media*" case defendants, Ferdinand Nahimana and Hassan Ngeze. The joint trial was scheduled to commence on 18 September 2000.

Omar Serushago v. the Prosecutor (ICTR-98-39-A)

149. The appellant, having pleaded guilty to genocide and crimes against humanity (murder, extermination, torture) on 14 December 1998 before Trial Chamber I, was sentenced to 15 years imprisonment by a judgement and sentence dated 5 February 1999. Arguing that the sentence was excessive, Omar Serushago appealed the sentence, requesting that it be reduced because of the mitigating circumstance of his confession of guilt. The parties appeared before the Appeals Chambers on 14 February 2000 for appellate arguments. By a decision issued later the same afternoon, the Appeals Chamber confirmed the judgement and sentence of the Trial Chamber.

D. Other activities of the Office of the Prosecutor

150. During the reporting period, on 10 May 2000, the Investigations Unit of the Office of the Prosecutor organized a Witness Management Workshop, which consisted of a working session on witness management issues within the Tribunal, which was attended by the Prosecutor of the Tribunal, Carla del Ponte. The workshop addressed the apparently contentious division of responsibilities between the Witnesses and Victims Support Section, under the administration of the Registry, and the Witness Management Team, a task force within the Investigations Unit of the Office of the Prosecutor, in transporting prosecution witnesses from Rwanda to Arusha and managing their presence in Arusha immediately before they testify at trial.

151. Ultimately, successful witness management requires healthy, proactive collaboration between the Registry and the Office of the Prosecutor. The Office of the Prosecutor exercises greater control, supervision and independence in witness management, a mandate anticipated in the Statute of the Tribunal and specifically recommended by the Office of Internal Oversight Services in 1997 (A/51/789, para. 99) and supported, most recently, by the Commission of Experts in its 1999 report (see A/54/634).

152. During the reporting period, the Prosecutor has visited her office in Kigali on four occasions. Each visit afforded opportunities to meet with officials of the Government of Rwanda, notably the Minister of Justice and the Prosecutor General. The Prosecutor has also travelled, or dispatched a personal delegate, usually the Deputy Prosecutor, to Belgium, Canada, France, Kenya, the United Kingdom, the Netherlands, the Democratic Republic of the Congo and the United States to meet with members of the Government to solicit cooperation and assistance in ongoing investigations and arrests.

153. The significant achievement of obtaining a plea of guilty from an accused whose collaboration is likely to advance ongoing investigations, as well as the increasing number of indictments and arrests, marks a

decisive phase in the Prosecutor's efforts to aggressively prosecute persons responsible for serious violations of international humanitarian law and thus to end the cycle of impunity in the Rwandan genocide. The period under review was also marked by a decisive strengthening of cooperation with all the Member States.

Notes

[1] See General Assembly resolution 53/212.

[2] Judges Laïty Kama (presiding), Lennart Aspegren and Navanethem Pillay.

[3] Judges Lennart Aspegren (presiding), Laïty Kama and Navanethem Pillay.

[4] Judges Navanethem Pillay (presiding), Erik Møse and Pavel Dolenc.

[5] Judges Erik Møse (presiding), Asoka de Zoysa Gunawardana and Mehmet Güney.

[6] These three accused persons are still at large.

[7] The accused person is still at large.

[8] Motions filed pursuant to rule 72 of the Rules of Procedure and Evidence (the "Rules").

[9] Motions filed pursuant to rule 50 of the Rules.

[10] Article 12 bis of the Directive of the Judicial and Legal Services Division.

[11] Until the recent restructuring of the Division, the Witnesses and Victims Support Section had operated as one section. During the restructuring and to further improve the efficiency of the Division and respect the separation between the defence and prosecution, the section was separated into two sections, viz: the Witnesses and Victims Support Section (D) and the Witnesses and Victims Support Section (P).

[12] Elizaphan Ntakirutimana was transferred following protracted legal proceedings in the United States on a Warrant of Arrest issued on 24 March 2000.

Annex I

Motions, decisions and pre-trial litigation in the case of *The Prosecutor v. Ignace Bagilishema* (ICTR-95-1-T)*

1. Initial appearance, 1 April, 1999.

2. Status conference, 12 and 13 August 1999.

3. Motion of the Office of the Prosecutor for protective measures heard in court on 15 September 1999. Decision rendered on 17 September 1999.

4. Request of the Office of the Prosecutor for severance of indictment. Decision rendered on 15 September 1999 (Bench decision).

5. Motion of the Office of the Prosecutor for protection of witnesses and leave to file amended indictment, heard in court on 16 September 1999. Decision rendered on 17 September 1999.

6. Motion for leave to file amended indictment. Decision rendered on 17 September 1999 (Bench decision).

7. Initial appearance on all seven counts in amended indictment, 18 September 1999.

8. Prosecutor's pre-trial conference, pursuant to rule 73 bis, 18 September 1999.

9. Prosecutor's pre-trial conference, pursuant to rule 73 bis, 25 October 1999.

10. Trial commenced on 27 October 1999.

11. Defence motion under rule 73 heard on 18 November 1999. Decision rendered on 23 November 1999 (Bench decision).

12. Status conference, 23 November 1999.

13. Status conference, 29 November 1999.

14. Defence's request for protection of witnesses filed on 30 November 1999. Decision rendered on 16 December 1999 (decided on brief by Judge Møse, sitting as a single judge, designated by the Trial Chamber).

15. Prosecutor's motion for leave to rely on witness statements disclosed after 27 August 1999, heard in court on 30 November 1999. Decision rendered on 2 December 1999.

16. Status conference, 2 December 1999.

17. Judicial recess, 15 December 1999-15 January 2000.

18. Defence request for the temporary transfer of three defence witnesses Y, Z and AA, pursuant to rule 90 bis, filed on 14 January 2000. Decision rendered on 17 January 2000 (decided on brief by Judge Møse, sitting as a single judge, designated by the Trial Chamber).

19. Defence motions under rule 73 to exclude prosecution witnesses T, U and X (moved in open court). Decision rendered on 25 January 2000 (Bench decision).

20. Status conference, 15 February 2000.

21. Request for cooperation, pursuant to article 28 of ICTR Statute. Decision rendered on 16 February 2000.

22. Defence motion on equality of arms, filed on 28 January 2000. Decision rendered on 17 February 2000 (Bench decision).

23. Request pursuant to article 73 of the Rules of Procedure and Evidence, filed by the defence on 11 January 2000. Decision rendered on 17 February 2000.

24. Defence pre-trial conference, pursuant to rule 73 ter, held on 30 March 2000.

25. Defence motion to order the prosecution to disclose admission of guilt made by witnesses Y, Z and AA, filed on 4 April 2000 and heard on 25 May 2000. Decision rendered on 8 June 2000.

26. Defence motion for summoning witnesses filed 20 April 2000, heard on 25 May 2000. Decision rendered on 8 June 2000.

* This list is indicative of the activities of Trial Chamber I in respect of the *Bagilishema* case alone. The *Bagilishema* trial commenced on 27 October 1999. Requests for adjournments in the trial were granted, to allow the defence to prepare its case and to allow for the transfer of witnesses. The parties presented their closing arguments from 4 to 7 September 2000.

27. Request of defence for an order for service of a United Nations memo prepared by Michael Hourigan filed on 26 April 2000. Decision rendered on 8 June 2000.

28. Defence request to direct the Office of the Prosecutor to investigate a matter, with a view to the preparation and submission of an indictment for false testimony against a witness, filed on 6 June 2000. Decision rendered on 11 July 2000.

Annex II

Note by Trial Chamber I on the "Media" cases

Pre-trial litigation

1. Trial Chamber I was inundated with pre-trial motions, which contributed to the delay in the commencement of this trial. Most of the motions were filed by the defence. The Trial Chamber decided most of the motions based on the briefs filed by the parties and dispensed with oral hearings.[1] Some of the decisions have been taken on appeal and decisions from the Appeals Chamber are pending.

Disclosure of witness statements, trial exhibits and documentary evidence

2. The untimely disclosure of materials by the Prosecutor contributed to the delay in the commencement of the trial. As provided in the Tribunal's Rules, disclosure of materials by the Prosecutor must be made to the defence, no later than 60 days before the commencement of the trial. The Prosecutor has indicated that the materials that she will be using at the trial will consist of 39 videotapes, 49 audio tapes, 48 audio broadcasts, 27 Radio-Télévision Libre des Mille Collines (RTLM) transcripts, 57 copies of the *Kangura* newspaper, 80 selected articles and 97 witness statements. Since most of these materials must be translated into either English or French and there was a sizeable backlog in translating these materials, the Prosecutor was unable to make full and complete disclosure of these materials to the defence.

3. On 15 February 2000, a status conference was held with a view to resolving the problems concerning disclosure. The conference determined that the trial should commence on 29 May 2000 and the parties agreed to hold another status conference before the commencement of the trial, to finalize matters concerning disclosure.

4. A further status conference was held on 19 and 20 April 2000 to consider, among other issues, the pending interlocutory appeals, the amendments of the indictments and the disclosure of materials. At that stage, the Prosecutor had not fulfilled her obligation in respect of disclosure, largely because most of the materials had not yet been translated. On 16 May 2000, the Trial Chamber rescheduled the commencement of the trial from 29 May to 5 June 2000, to enable the Prosecutor to meet her obligations with regard to the disclosure of documents.

The Barayagwiza joinder

5. The joining of Barayagwiza to the other two accused (Nahimana and Ngeze) contributed to the delay in the commencement of the trial. On 31 March 2000, the Appeals Chamber, having reviewed its previous decision, ordered that Barayagwiza could stand trial. Barayagwiza's defence immediately filed a review of the Appeals Chamber's review decision, and the Prosecutor filed further pre-trial motions in the case against Barayagwiza. One such motion was a request to join Barayagwiza to the other two accused (Nahimana and Ngeze), which was granted by the Trial Chamber on 6 June 2000.

[1] Rule 73 (A) of the ICTR Rules of Procedure and Evidence provides for motions to be decided based solely on the briefs filed by the parties.

6. As a result of pending interlocutory appeals and the pre-trial motions filed by the parties, a pre-trial conference was rescheduled for 11 September 2000 and the trial was scheduled to commence on 18 September 2000. The trial did not commence on the scheduled date because of the pre-trial motions filed by the parties. Instead the Trial Chamber heard a number of motions filed by the defence teams and delivered decisions thereto.

Annex III

Note by Trial Chamber II

The "Butare" cases

1. In response to the Prosecutor's requests, the Chamber granted her leave to amend the indictments against six accused: Ndayambaje, on 2 September 1999; Nyiramasuhuko and Ntahobali, on 10 August 1999; Nteziryayo, and Nsabimana and Kanyabashi, on 12 August 1999. Counsel for Ndayambaje, Nteziryayo and Kanyabashi appealed the decisions. The Appeals Chamber rejected the appeals on 2 November 2000 for the first two and on 21 January 2000 for Kanyabashi.

2. On 5 October 1999, the Trial Chamber granted the Prosecutor's motion for joint trial of the same six accused. The defence counsel for Kanyabashi and Nyiramasuhuko appealed the decision and the Appeals Chamber denied their appeals on 17 April 2000.

3. Once the indictments pertaining to the accused had been amended, most of the accused filed preliminary motions pertaining to the new indictments. Nteziryayo's preliminary motions were disposed of by a first decision of the Trial Chamber on 27 August 1999, followed by a decision dated 2 March 2000. Kanyabashi's preliminary motion concerning defects in the form of the indictment was ruled upon on 31 May 2000. Nyiaramasuhuko and Ntahobali's preliminary motions were reviewed on 7 June and 10 July 2000 and the decisions are pending.

4. Several motions were also filed by defence counsel pertaining to questions of disclosure, such as those filed by Nteziryayo and Nsabimana to limit possible evidence to be disclosed by the Prosecutor and to exclude certain material already disclosed. Decisions were rendered on those issues on 11 February 2000. A decision was also rendered on 16 February regarding the scope of the Prosecutor's obligation as regards disclosure in the Nsabimana case. And on 29 February 2000, the Chamber rendered its oral ruling on a motion by Ntahobali based on an alleged violation by the Prosecutor of her disclosure obligations under rule 66 (A) (ii).

5. Furthermore, on 23 May 2000, the Chamber ruled on a defence motion by Kanyabashi for habeas corpus and for stoppage of proceedings, which was heard on 13 April 2000. On 19 April 2000, Kanyabashi appealed the decision. The appeal is still pending before the Appeals Chamber.

6. On 2 June 2000, a decision was rendered on a defence motion by Nzirorera requesting that the Prosecutor be instructed to investigate the plane crash of President Habyarimana. On 20 June 2000, the Chamber partly granted a joint motion by Nyiaramasuhuko and Ntahobali seeking protection of their rights on the context of joint trials.

7. It should also be noted that defence counsel for Nyiramasuhuko and Kanyabashi applied to the Tribunal requesting that a judge be disqualified from trials. The motions were reviewed by the Bureau, which found the requests without merit and rejected them.

8. In conclusion, it is important to recall that the Chamber has been and remains ready to start the joint trial of these six accused as soon as possible, especially as several of them have been detained for more than three years. However, the Chamber has not to date been in a position to fix a date for trial, owing to the burden of preliminary and other motions filed as described above. Another reason for the delay is that two of the current counsel for the accused Ntahobali and Ndayambaje were assigned only in February 2000. They were then granted additional time by the Chamber to file new preliminary motions.

9. During an informal meeting on the progress of their cases held by Judge Kama on 9 June 2000, these two counsel indicated that they would not be ready for trial before March 2001, as they needed further time to prepare. Moreover, the Prosecutor indicated that she has not yet completed disclosure to the defence pursuant to rule 66. This, in turn, creates additional delay as defence counsel have recently filed new motions pertaining to disclosure which, they argue, is necessary for their preparation.

The "Government" cases

10. Trial Chamber II is also responsible for reviewing five different cases, often referred to as the "Government" cases, concerning 14 accused, 11 of

whom have been arrested and are currently in preventive detention in Arusha.

11. The main difficulty encountered with regard to these cases has been the changes in the Prosecutor's strategy. The Prosecutor initially requested the joint trial of all the accused, in a "Motion for joinder of accused Eliezer Niyitegeka and 12 others" filed on 25 July 1999. The Prosecutor subsequently informed the judges unofficially that she would request the withdrawal of this motion and its "replacement" by two new motions, seeking to join the trials of all the accused under two groups, the "politicians' trial" and the "Government trial". However, it was only on 3 March 2000 that the Prosecutor proceeded to file the two new motions, which were subsequently amended on 13 March 2000. The Chamber was on several occasions forced to adjourn hearings on the motions, but was finally able to hear them on 6 and 28 June 2000. The Chamber rendered its written decisions on 29 June and 6 July 2000. It did not grant the said motions, leaving the cases as they originally stood.

12. On 6 July 2000, the Chamber granted a defence motion in opposition to joinder and for severance and separate trial filed by Kajelijeli. On 12 July 2000, the Chamber ruled against a similar motion filed by Nzirorera.

13. In the meantime, the Trial Chamber was seized of and reviewed several motions. On 6 October 1999, it ruled on a motion filed by Bicamumpaka requesting the assignment of Mrs. Veilleux as defence counsel.

14. By a decision of 8 May 2000, the Chamber ruled on a preliminary motion on defects in the form of the indictment filed by the defence council for Bicamumpaka.

15. A recurrent issue in these cases has been the question of return or inspection of items seized at the time of the arrests of the accused. The Chamber rendered its decisions on this issue on 10 December 1999 in the *Karemera* and *Ngirumpatse* cases. The latter decision, concerning Ngirumpatse, was appealed by the defence, and the Appeals Chamber rendered its ruling on 28 April 2000.

16. On 10 December 1999, the Trial Chamber also denied a motion by Karemera requesting that the charges against him be dismissed and that he be released. Karemera on 17 November 1999 had appealed the jurisdiction of the Trial Chamber to review such a matter. The appeal was denied by the Appeals Chamber on 18 May 2000, as was Karemera's appeal on a decision rendered by the Bureau on 16 November 1999 denying a request for disqualification of trial judges.

17. A motion by Kajelijeli requesting that the judges of the Trial Chamber be disqualified from hearing a motion on the lawfulness of arrest and detention was also denied by the Bureau on 7 December 1999. The defence counsel appealed this Bureau decision on 10 December 1999; the appeal was dismissed. The Trial Chamber rendered its decision on Kajelijeli's motion on the lawfulness of his arrest and detention on 8 May 2000. It was appealed by the defence on 12 May 2000 and the Appeals Chamber dismissed it on 10 August 2000.

18. On 11 May 2000, Judge Sekule, sitting as a single judge designated by the Chamber pursuant to rule 73, rendered his decisions in the *Bizimungu* case, on a defence motion requesting that the Prosecutor be compelled to produce all supporting material in English and on another defence motion for the extension of time owing to failure by the Prosecutor to disclose all supporting material in English.

19. In the *Niyitegeka* case, the Chamber ruled orally, on 1 June 2000, giving its reasons by written decision of 21 June 2000, on a preliminary motion filed by the defence based on lack of jurisdiction and defects in the form of the indictment. It also dismissed, by the same decision, a defence motion seeking stay of the proceedings. The defence counsel for Niyitegeka appealed this ruling on 2 June 2000. It is still pending before the Appeals Chamber. On 21 June 2000, the Chamber granted leave to the Prosecutor to file an amended indictment in the case and on 23 June 2000 decided to extend the deadline for the submission of the amended indictment. The defence for Niyitegeka on 27 June 2000 filed a notice of appeal concerning the two Trial Chamber decisions of 21 and 23 June 2000; this is also still pending before the Appeals Chamber. Previously, on 4 February 2000, the Trial Chamber had denied a motion filed by Niyitegeka requesting that the supporting material pertaining to the new amended indictment proposed by the Prosecutor be disclosed to the defence.

20. On 4 July 2000, the Chamber authorized the defence counsel for Mugiraneza to withdraw two motions. On 6 July, the Chamber issued three decisions

ordering protective measures for witnesses in the Ngirumpatse, Karemera and Kajelijeli cases. On 7 July 2000, the Chamber issued a decision ordering protective measures for witnesses in the *Kamuhanda* case and on 12 July 2000 it also ordered, through four different decisions, protective measures for prosecution witnesses in the *Niyitegeka, Mugiraneza, Mugenzi* and *Bicamumpaka* cases.

21. In early July 2000, after having ruled on the Prosecutor's motions for joinder, the Trial Chamber decided to organize status conferences in the five cases, with a view to an early commencement of trial procedures. The status conferences will be held in October 2000 and it is hoped that trial dates will be fixed, thus obliging the Prosecutor to comply with rule 66 and disclose material to the defence counsel.

Annex IV

Note by Trial Chamber III

1. Trial Chamber III had before it a greater number of motions than any other Chamber, most of which were ruled upon in April, May and June 2000. (A list of these motions is set out in annex V to the present report.) The Chamber had anticipated that the *Cyangugu* trial, consisting of three accused, and the *Semanza* trial would commence earlier in the year. However, since there were pending appeals pertaining to these cases, the Chamber had no legal alternative but to await the determination of those appeals by the Appeals Chamber.

2. The *Cyangugu* trial was due to start on 15 August 2000, but one of the defence counsel applied for a postponement of the trial for three months so that he might attend to his father, who was ill. The Trial Chamber allowed a postponement of the hearing only until 18 September 2000. The *Semanza* trial would have commenced earlier than the set date of 16 October 2000, but the defence counsel was sick and had to return to the United States for medical attention. The Chamber also faced many delays associated with translation difficulties in both cases.

Annex V

[Original: English/French]

Motions and pre-trial litigation in Trial Chambers I, II and III

Trial Chamber I

Decisions rendered since May 1999

1. Motion of the Office of the Prosecutor for protective measures filed 10 December 1998.

Decision dated 24 May 1999: Case ICTR-97-32-1-T (*Georges Ruggiu*) (hearing).

2. Defence preliminary motion on defects in the form of indictment.

Decision dated 24 May 1999: Case ICTR-97-32-1-T (*Georges Ruggiu*) (written brief).

3. Prosecutor's request for orders under rule 54 to expedite pre-trial phase.

Decision dated 14 July 1999: Case ICTR-97-32-1-T (*Georges Ruggiu*).

4. Defence motion on the preliminary motion on defects in the form of indictment, filed 15 March 1999.

Decision dated 30 August 1999: Case ICTR-96-11-T (*Ferdinand Nahimana*) (heard in court).

5. Initial appearance of Nahimana on new counts pursuant to rule 50 (B) of the Rules, 21 October 1999.

6. Joinder proceedings for *Nahimana/Ngeze*, 21 October 1999.

Decision dated 30 November 1999: Case ICTR-96-11-T (*Ferdinand Nahimana*) (heard in court).

7. Request of the Office of the Prosecutor for leave to file an amended indictment, filed 19 July 1999.

Decision dated 5 November 1999: Case ICTR-96-11-T (*Ferdinand Nahimana*) (heard in court).

8. Motion of the Office of the Prosecutor for witness protection, filed 22 October 1998.

Decision dated 23 November 1999: Case ICTR-96-11-T (*Ferdinand Nahimana*).

9. Initial appearance for Ngeze on new counts under rule 50 (B) of the Rules, 25 November 1999.

10. Review in terms of article 19 (E) of the Directive on Assignment of Counsel.

Decision dated 19 January 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

11. Status conference in "Media" case, 15 February 2000.

12. Status conference in *Ruggiu* case, 15 February 2000.

13. Defence request for an order for protection of its witnesses, filed 13 January 2000.

Decision dated 25 February 2000: Case ICTR-96-11-T (*Ferdinand Nahimana*) (written brief).

14. Defence motion for bill of particulars filed on 19 January 2000.

Decision dated 16 March 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

15. Defence motion to compel complete discovery, filed 19 January 2000.

Decision dated 16 March 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

16. Decision on defence motion for disclosure filed on 13 January 2000.

Decision dated 29 March 2000: Case ICTR-96-11-T (*Ferdinand Nahimana*) (written brief).

17. Request of the Office of the Prosecutor to file amended indictment filed on 20 September 1999.

Decision dated 11 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (heard in court).

18. Prosecutor's request for leave to file amended indictment, filed on 28 June 1999.

Decision dated 11 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (heard in court).

19. Defence motion to adopt and conform filed on 23 March 2000.

Decision dated 14 April 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

20. Defence's urgent motion to quash indictment for defects in the form of the indictment, filed on 24 February 1998.

Decision dated 14 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*).

21. Defence motion for measures and orders against the Office of the Prosecutor to disclose evidence, filed on 4 June 1998.

Decision dated 14 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

22. Defence motion for clarification of the terms and expressions in the indictment, filed on 24 February 1999.

Decision dated 14 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

23. Defence request for an order for protection of its witnesses, filed on 4 June 1998.

Decision dated 14 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

24. Initial appearance for Barayagwiza on new counts under rule 50 (B) of the Rules (single judge President Pillay), 18 April 2000.

25. Extremely urgent defence motion for a stay of proceedings including the appearance by the applicant scheduled for April 2000, filed on 17 April 2000.

Decision dated 18 April 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (Bench decision).

26. Status conference in "Media" case held in Paris, 19-20 April 2000.

27. Defence motion to have court request a *subpoena duces tecum* for the defendant's arrest and certified court records, filed on 23 March 2000.

Decision dated 10 May 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

28. Defence motion to dismiss indictment *en toto* for lack of subject matter jurisdiction and for violation of fundamental fairness for the accused.

Decision dated 10 May 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

29. Hearing of *Ruggiu* motions: defence motion for leave to withdraw all defence motions.

Decision dated 15 May 2000: Case ICTR-97-32-1-T (*Georges Ruggiu*) (Bench decision).

30. Defence motion for leave to change plea, filed on 11 April 2000.

Decision dated 15 May 2000: Case ICTR-97-32-1-T (*Georges Ruggiu*) (Bench decision).

31. Request by the Office of the Prosecutor for leave to file an amended indictment, filed on 4 May 2000.

Decision dated 15 May 2000: Case ICTR-97-32-1-T (*Georges Ruggiu*) (Bench decision).

32. Joint motion for consideration of plea agreement between Ruggiu and the Prosecutor, filed on 8 May 2000.

Decision dated 15 May 2000: Case ICTR-97-32-1-T (*Georges Ruggiu*) (Bench decision).

33. Status conference in the *Kibuye* case, 24 May 2000.

34. Prosecutor's motion for joinder filed 10 April 2000.

Decision dated 6 June 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

35. Defence's extremely urgent motion for lack of jurisdiction and waiver of time limits under rule 72 (A) and (F) of the Rules, filed 15 May 2000.

Decision dated 6 June 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

36. Prosecutor's motion for leave to sever indictment, filed 13 March 2000.

Decision dated 6 July 2000: Case ICTR-95-I (*Mikaeli Muhimana*) (written brief).

37. Defence Motion to continue trial, filed 14 May 2000.

Decision dated 7 July 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

38. Defence motion to unseal United Nations documents regarding the assassination of Rwandan and Burundi presidents, filed 14 May 2000.

Decision dated 7 July 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

39. Request of the defence for an order for service of a United Nations memo prepared by Michael Hourigan, filed on 14 May 2000.

Decision dated 7 July 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

40. Defence preliminary motion pursuant to rule 72, filed on 26 April 2000.

Decision dated 12 July 2000: Case ICTR-96-11-T (*Ferdinand Nahimana*) (written brief).

41. Decision on defence request for separate trials, filed on 29 April 2000.

Decision dated 12 July 2000: Case ICTR-97-27-I (*Hassan Ngeze*) (written brief).

42. Defence request for extension of time to file preliminary motions, filed 7 July 2000.

Decision dated 12 July 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

43. Prosecutor's motion for protective measures for witnesses, filed 22 October 1998.

Decision dated 13 July 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

44. Registrar's request for President to reconsider decision on assignment of Counsel, filed 11 July 2000.

Decision dated 13 July 2000: Case ICTR-96-3-A (*Rutaganda*) (written brief).

45. Request pursuant to an order for service of report of United Nations investigator Michael Hourigan, filed on 19 July 2000.

Decision dated 25 August 2000: Case ICTR-97-19-I (*Jean Bosco Barayagwiza*) (written brief).

Trial Chamber II

Decisions, orders or rulings in the "Government" and "Butare" cases between August 1999 and April 2000

The Prosecutor v. Elie Ndayambaje (ICTR-96-8-A)

1. Decision on the Prosecutor's request for leave to file amended indictment, 2 September 1999.

2. Order establishing deadlines for filing on 13 September 1999 (Appeals Chamber).

3. Decision rejecting notice of appeal, 2 November 1999 (Appeals Chamber).

4. Decision rejecting notice of appeal/Corr., 15 November 1999 (Appeals Chamber).

The Prosecutor v. Pauline Nyiramasuhuko and Arsène Shalom Ntahobali (ICTR-97-21-I)

1. Decision on the Prosecutor's request for leave to file the indictment, 10 August 1999.

2. Ruling on the appeal lodged against the decision rendered by Trial Chamber II on 5 October 1999, 13 April 2000 (Appeals Chamber).

The Prosecutor v. Alphonze Nteziryayo (ICTR-97-29-T)

1. Decision on the Prosecutor's request for leave to file the amended indictment, 12 August 1999.

2. Decision rejecting notice of appeal, 2 November 1999 (Appeals Chamber).

3. Decision on Nteziryayo's preliminary motions brought by the defence following the initial appearance of the accused, 27 August 1999.

4. Decision on the preliminary motion brought by the defence following the second initial appearance of the accused, 2 March 2000.

5. Decision on the defence motion to limit possible evidence to be disclosed to the defence and to exclude certain material already disclosed by the Prosecutor, 11 February 2000.

The Prosecutor v. Joseph Kanyabashi (ICTR-96-15-A)

1. Grounds for the decision on the Prosecutor's request for leave to file amended indictment, 12 August 1999.

2. Order establishing deadlines for filing, 13 September 1999 (Appeals Chamber).

3. Decision rejecting notice of appeal (21 January 2000) (Appeals Chamber).

4. Bureau's decision on the request for disqualification of Judge William H. Sekule, 25 February 2000.

5. Ruling on the appeal lodged against the decision rendered by Trial Chamber II on 5 October 1999, 13 April 1999 (Appeals Chamber).

The Prosecutor v. Sylvain Nsabimana (ICTR-97-29-T)

1. Decision on the Prosecutor's request for leave to file the amended indictment, 12 August 1999.

2. Decision on the defence motion to limit possible evidence to be disclosed to the defence and to exclude certain material already disclosed by the Prosecutor, 11 February 2000.

3. Decision on the defence motion for an order of protection of its witnesses, 15 February 2000.

4. Decision on the defence motion for disclosure of evidence which may be used by the Prosecutor, 16 February 2000.

The Prosecutor v. Jérôme Clément Bicamumpaka (ICTR-99-50-I)

1. Decision on the motion requesting the assignment of Francine Veilleux as defence counsel for Jérôme Clément Bicamumpaka, 6 October 1999.

2. Decision rejecting notice of appeal, 11 November 1999 (Appeals Chamber).

The Prosecutor v. Mathieu Ngirumpatse (ICTR-97-44-I)

1. Decision on the defence motion challenging the lawfulness of the arrest and detention and seeking return or inspection of seized items, 10 December 1999.

2. Decision (interlocutory appeals filed against the decisions of 18 November 1999 and 10 December 1999), 28 April 2000.

The Prosecutor v. Edouard Karemera (ICTR-98-44-I)

1. Decision on the defence motion for the release of the accused, 10 December 1999.

2. Defence motion for the restitution of documents and other personal or family belongings seized (rule 40 (C) of the Rules of Procedure and Evidence), and the exclusion of such evidence which may be used by the Prosecutor in preparing an indictment against the applicant, 10 December 1999.

3. Corrigendum to the decision on the defence motion for the restitution of documents and other personal or family belongings seized (rule 40 (C) of the Rules of Procedure and Evidence), and the exclusion of such evidence which may be used by the Prosecutor in preparing an indictment against the applicant, 13 April 2000.

The Prosecutor v. Juvénal Kajelijeli (ICTR-98-44-A)

1. Ruling on the pending appeal lodged against the decision rendered on 7 December 1999, 28 April 2000.

The Prosecutor v. Augustin Bizimana, Edouard Karemera, Callixte Nzabonimana, André Rwamakuba, Mathieu Ngirumpatse, Joseph Nzirorera, Félicien Kabuga and Juvénal Kajelijeli (ICTR-98-44-T)

Quashing of the order on non-disclosure, 27 September 1999.

Trial Chamber III[1]

1. Initial appearance (15 April 1999), *Prosecutor v. Niyitegeka* (ICTR-96-14-I) (Judges Pillay, Williams, Dolenc).

2. Order for transfer and provisional detention (under rule 40 bis of the Rules of Procedure and Evidence) (16 April 1999) *Prosecutor v. Bicamumpaka* (ICTR-99-49-DP) (Judge Dolenc).

3. Decision on the extremely urgent request made by the defence for protection measures for Mr. Bernard Ntuyahaga (13 September 1999), *Prosecutor v. Bagosora* (ICTR-96-7-I) (Judges Williams, Dolenc and Gunawardana).

4. Decision on the defence motion seeking dismissal of the counts of violations of article 3 common to the

[1] Trial Chamber III is composed of Judges Lloyd George Williams, presiding, Yakov Ostrovsky, and Pavel Dolenc, unless otherwise specified in parentheses.

N.B. Judge Dolenc, who sits in Trial Chamber III, also participated in more than 16 written decisions on various occasions between August 1999 and July 2000 when the President assigned him to sit in Trial Chambers I and II.

Geneva Conventions for lack of evidence (29 September 1999), *Prosecutor v. Semanza* (ICTR-97-20-I).

5. Decision on the motion to set aside the arrest and detention of Laurent Semanza as unlawful (6 October 1999), *Prosecutor v. Semanza* (ICTR-97-20-I).

6. Decision on the Prosecutor's motion for joinder (11 October 1999), *Prosecutor v. Ntagerura, Prosecutor v. Bagambiki, Imanishimwe and Munyakazi* (ICTR-96-10-I, ICTR-97-36-I).

7. Decision on the defence's extremely urgent motion for disqualification and objection based on lack of jurisdiction (4 November 1999), *Prosecutor v. Kabiligi* (ICTR-97-34-I) (Judge Williams).

8. Pre-trial conference (8 November 1999), *Prosecutor v. Semanza* (ICTR-97-20-I).

9. Initial appearance (24 November 1999), *Prosecutor v. Muhimana* (ICTR-95-1B-I).

10. Oral decision denying three defence motions seeking to adjourn the status conference and to stay proceedings (30 November 1999), *Prosecutor v. Bagambiki, Imanishimwe and Ntagerura* (ICTR-99-46-I).

11. Status conference (30 November 1999), *Prosecutor v. Bagambiki, Imanishimwe and Ntagerura* (ICTR-99-46-I).

12. Oral decision denying Kabiligi's extremely urgent motion for a stay of ruling (1 December 1999), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

13. Decision to confirm the indictment (2 February 2000), *Prosecutor v. ***** and others* (ICTR-00-55-I) (Judge Ostrovsky).[2]

14. Warrant of arrest and order for transfer and detention (2 February 2000), *Prosecutor v. **** and others* (ICTR-00-55-I) (Judge Ostrovsky).[2]

15. Decision on the defence motion for additional protective measures for defence witnesses (4 February 2000), *Prosecutor v. Ntagerura* (ICTR-96-10-I).

16. Decision on the defence motion for additional protective measures for defence witnesses (separate opinion of Judge Yakov Ostrovsky) (4 February 2000), *Prosecutor v. Ntagerura* (ICTR-96-10-I).

17. Decision on the Prosecutor's motion for orders for protective measures for victims and witnesses (3 March 2000), *Prosecutor v. Bagambiki and Imanishimwe* (ICTR-97-36-I and 36-T).

18. Decision on the Prosecutor's motion for orders for protective measures for victims and witnesses (9 March 2000), *Prosecutor v. Muhimana* (ICTR-95-1B-I).

19. Initial appearance (10 March 2000) (hearing continued), *Prosecutor v. Kamuhanda* (ICTR-99-54-I) (Judge Ostrovsky).

20. Decision on the defence motion for the annulment of the initial appearance (20 March 2000), *Prosecutor v. Muhimana* (ICTR-95-1B-I).

21. Appearance of accused; entry of not guilty plea (24 March 2000) (hearing continued from 10 March 2000), *Prosecutor v. Kamuhanda* (ICTR-99-54-I) (Judge Ostrovsky).

22. Decision on the defence motions objecting to the jurisdiction of the Trial Chamber on the amended indictment (13 April 2000), *Prosecutor v. Nsengiyumva* (ICTR-96-12-I).

23. Decision on the defence motions objecting to a lack of jurisdiction and seeking to declare the indictment void ab initio (13 April 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

24. Pre-trial conference (19 April 2000), *Prosecutor v. Semanza* (ICTR-97-20-I).

25. Initial appearance (27 April 2000), *Prosecutor v. Ndindiliyimana* (ICTR-2000-56-I) (Judge Dolenc).

26. Decision on the defence motion seeking the striking out of paragraph 6.17 of the concise statement of facts for non-compliance of orders requiring amendment (3 May 2000), *Prosecutor v. Nsengiyumva* (ICTR-96-21-I) (Judge Ostrovsky) (decided on briefs).[3]

27. Decision on Imanishimwe's motion for hearing, entry on record and formal confirmation of the Prosecutor's intentions by Trial Chamber III (4 May 2000), *Prosecutor v. Ntagerura, Bagambiki, Imanishimwe and Munyakazi* (ICTR-96-10A-I and ICTR-97-36-I) (decided on briefs).

[2] Identities of the accused are not to be revealed until they are arrested and transferred to the seat of the Tribunal, following an order to this effect by Judge Ostrovsky.

[3] Denotes a decision rendered without a hearing, based solely on the parties' briefs under rule 73 (A).

28. Decision on Ntabakuze's motion for a declaratory ruling in order to determine the law applicable to the Prosecutor's motion for joinder filed on 28 October 1999, prior to hearing the said motion (4 May 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

29. Decision on Ntabakuze's motion seeking to have rule 48 bis declared ultra vires unlawful, contrary to the Rules of Procedure and Evidence, and inapplicable to the accused (4 May 2000), *Prosecutor v. Kabiligi & Ntabakuze* (ICTR-97-34-I).

30. Decision on Ntabakuze's motion to declare inadmissible the Prosecutor's motion for joinder (4 May 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I) (Judge Dolenc) (decided on briefs).

31. Decision on Kabiligi's motion for the disclosure of statements of the accused (5 May 2000), *Prosecutor v. Kabiligi & Ntabakuze* (ICTR-97-34-I) (Judge Dolenc) (decided on briefs).

32. Oral decision on admissibility of response and book of authorities, and defence motion for adjournment (8 May 2000), *Prosecutor v. Nsengiyumva* (ICTR-96-12-I).

33. Decision on the defence motion raising objections on defects in the form of the indictment and to personal jurisdiction on the amended indictment (12 May 2000), *Prosecutor v. Nsengiyumva* (ICTR-96-12-I).

34. Decision on the defence motion on defects in the form of the indictment (15 May 2000), *Prosecutor v. Nsengiyumva* (ICTR-96-12-I).

35. Decision on the prosecution motion for a temporary stay of execution of the decision of 5 October 1998 relating to defects in the form of the indictment (17 May 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I) (Judge Dolenc) (decided on briefs).

36. Decision on the motion seeking disclosure of legible and complete French versions of certain documents disclosed to the defence on 12 and 29 October 1998 as well as the originals of statements already disclosed (17 May 2000), *Prosecutor v. Ntabakuze* (ICTR-97-34-I) (Judge Ostrovsky) (decided on briefs).

37. Decision on preliminary motion seeking to obtain from the new indictment clarification crucial in the exercise of the right of the accused to raise preliminary motions (Under rule 50 (C) of the Rules of Procedure and Evidence) (18 May 2000), *Prosecutor v. Ntabakuze* (ICTR-97-34-I) (Judge Ostrovsky) (decided on briefs).

38. Decision on defence motion seeking clarification of the new charges (rule 72 of the Rules of Procedure and Evidence) (18 May 2000), *Prosecutor v. Kabiligi* (ICTR-97-34-I).

39. Oral decision on the amicus curiae brief of the Government of Rwanda (18 May 2000), *Prosecutor v. Bagosora* (ICTR-98-41-I).

40. Decision on the defence motion to implement Trial Chamber II decision rendered on 25 September 1998 ordering the return of seized items and on the Prosecutor's motion for a temporary stay for the execution of the same decision (19 May 2000), *Prosecutor v. Ntabakuze* (ICTR-97-34-I).

41. Decision on the motion by the Office of the Prosecutor for orders for protective measures for victims and witnesses (19 May 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I) (Judge Ostrovsky).

42. Initial appearance (25 May 2000), *Prosecutor v. Nzuwonemeye* (ICTR-2000-56-I) (Judge Dolenc).

43. Pre-trial conference (26 May 2000), *Prosecutor v. Bagambiki, Imanishimwe and Munyakazi, Prosecutor v. Ntagerura* (ICTR-99-46-I).

44. Oral decision granting the Prosecutor's motion to sever Munyakazi (who remains at large) (26 May 2000), *Prosecutor v. Bagambiki, Imanishimwe and Munyakazi, Prosecutor v. Ntagerura* (ICTR-99-46-I).

45. Decision on the defence motion seeking supplementary investigations (1 June 2000), *Prosecutor v. Kabiligi* (ICTR-97-34-I).

46. Decision on Kabiligi's motions to nullify and declare evidence inadmissible (2 June 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I) (Judge Dolenc) (decided on briefs).

47. Decision on Kabiligi's motion to quash or amend the indictment (6 June 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

48. Decision on Ntabakuze's motion for disclosure of material (8 June 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

49. Decision on Kabiligi's supplementary motion for investigation and disclosure of evidence (8 June 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

50. Decision on defence motion for disclosure of evidence pursuant to rules 66 et al. and 73 of the Rules of Procedure and Evidence and articles 19 (1), 20 (2) and 20 (4) (b) of the Statute of the Tribunal (26 June 2000), *Prosecutor v. Ntagerura* (ICTR-96-10A-I) (Judge Ostrovsky) (decided on briefs).

51. Decision on the prosecutor's urgent motion for extension of time within which to comply fully with the orders contained in the decision of 19 May 2000 (28 June 2000), *Prosecutor v. Ntabakuze* (ICTR-97-34-I) (decided on briefs).

52. Decision on Kabiligi's motion for disclosure and restitution of documents pursuant to decision rendered on 5 October 1998 and the Prosecutor's motion for a temporary and partial stay of execution of the same decision (28 June 2000), *Prosecutor v. Kabiligi and Ntabakuze* (ICTR-97-34-I).

53. Decision on the Prosecutor's motion for joinder (29 June 2000), *Prosecutor v. Bagosora, Prosecutor v. Kabiligi and Ntabakuze, Prosecutor v. Nsengiyumva* (ICTR-96-7-I, ICTR-97-34-I, ICTR-97-30-I, ICTR-96-12-I).

54. Pre-trial conference (3 July 2000), *Prosecutor v. Bagambiki, Imanishimwe and Ntagerura* (ICTR-99-46-I).

55. Status conference (7 July 2000), *Prosecutor v. Semanza* (ICTR-97-20-I).

56. Decision on the Prosecutor's motion for Ntagerura's defence to fulfil its obligation in respect of reciprocal disclosure of evidence pursuant to rule 67 (A) (ii) and (C) (10 July 2000), *Prosecutor v. Ntagerura* (ICTR-99-46-I).

57. Decision on Imanishimwe's motion objecting to non-compliance with the Rules and material prejudice to the accused (10 July 2000), *Prosecutor v. Bagambiki, Imanishimwe and Ntagerura* (ICTR-99-46-I) (decided on briefs).

58. Ex parte hearing to confirm an indictment (11 July 2000), *Prosecutor v.* [name under seal] (ICTR-2000-59-I) (Judge Dolenc).

59. Ex parte hearing to confirm an indictment (11 July 2000), *Prosecutor v.* [name under seal] (ICTR-2000-60-I) (Judge Dolenc).

60. Confirmation of the indictment and order for non-disclosure of the indictment and protection of victims and witnesses (13 July 2000), *Prosecutor v.* [name under seal] (ICTR-2000-59-I) (Judge Dolenc).

61. Warrant of arrest and order for transfer and detention (14 July 2000), *Prosecutor v.* [name under seal] (ICTR-2000-59-I) (Judge Dolenc).

62. Confirmation of the indictment and order for non-disclosure of the indictment and protection of victims and witnesses (17 July 2000), *Prosecutor v.* [name under seal] (ICTR-2000-60-I) (Judge Dolenc).

63. Decision on a motion by the accused André Ntagerura for rectification of an error of fact in accordance with rule 73 of the Tribunal's Rules of Procedure and Evidence and regarding the decision of 26 June 2000 rendered by Trial Chamber III (22 August 2000), *Prosecutor v. Ntagerura* (ICTR-99-46-I) (Judge Ostrovsky) (decided on briefs).

64. Decision on Imanishimwe's motions for amendment of the indictment and disclosure (23 August 2000), *Prosecutor v. Bagambiki and Imanishimwe, Prosecutor v. Ntagerura* (ICTR-99-46-I).

65. Decision on the Prosecutor's motion for the transfer of detained witnesses pursuant to rule 90 bis (23 August 2000), *Prosecutor v. Bagambiki and Imanishimwe, Prosecutor v. Ntagerura* (ICTR-99-46-I) (Judge Dolenc) (decided on briefs).

66. Pre-trial conference (23 August 2000), *Prosecutor v. Bagambiki and Imanishimwe, Prosecutor v. Ntagerura* (ICTR-99-46-I).

67. Oral decision on Prosecutor's motion for an order that the defence file a pre-trial brief pursuant to rule 73 bis (f) (23 August 2000), *Prosecutor v. Bagambiki and Imanishimwe, Prosecutor v. Ntagerura* (ICTR-99-46-I).

68. Decision on the defence motion for exclusion of evidence on the basis of violations of the Rules of Procedure and Evidence, *res gestae*, hearsay and violations of the Statute and Rules of the Tribunal (23 August 2000), *Prosecutor v. Semanza* (ICTR-97-20-I) (Judge Dolenc) (decided on briefs).

69. Decision on the defence's extremely urgent application ex parte for a subpoena to compel consistent disclosure, better and further particulars (23 August 2000), *Prosecutor v. Semanza* (ICTR-97-20-I).

70. Decision on the motion by Emmanuel Bagambiki's defence seeking orders for protective measures for its witnesses (7 September 2000), *Prosecutor v. Bagambiki and Imanishimwe, Prosecutor v. Ntagerura* (ICTR-99-46-I) (decided on briefs).

71. Decision on the motion by the accused André Ntagerura for revocation of an order, pursuant to rule 73 of the Rules of Procedure and Evidence, regarding the order rendered on 23 August 2000 by Trial Chamber III and additional motion by the accused André Ntagerura to the motion for revocation of an order, pursuant to rule 73 of the Rules of Procedure and Evidence, regarding the order rendered on 23 August 2000 by Trial Chamber III (8 September 2000), *Prosecutor v. Ntagerura, Prosecutor v. Bagambiki and Imanishimwe* (ICTR-99-46-I) (decided on briefs).

72. Decision on the defence motion for dismissal of the entire proceedings owing to persistent and continuous violations of the rights of the accused, the Rules of Procedure and Evidence and the Statute of the Tribunal and abuse of process (11 September 2000), *Prosecutor v. Semanza* (ICTR-97-20-I) (decided on briefs).